217269

ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

PYCO INDUSTRIES, INC. --)
FEEDER LINE DEVELOPMENT --) F.D. 34890
SOUTH PLAINS SWITCHING LTD.)

PYCO INDUSTRIES, INC.'s
MODIFICATIONS TO FEEDER LINE APPLICATION
RESULTING FROM DISCOVERY PROCESS TO DATE
(contains a motion to compel response
to discovery with request that motion
be held in abeyance)

PYCO Industries, Inc. (PYCO), hereby submits its modifications to its revised feeder line application (FLA) based upon discovery to date.

As indicated herein, PYCO has determined that Alternative Two as originally defined in PYCO's FLA will not provide adequate or reliable rail service to PYCO. PYCO has accordingly prepared a revised Alternative Two which encompasses additional SAW property (all the SAW yard and mainline from BNSF boundary to Avenue A, except for SAW's office building and engine storage side track).

ORIGINAL

Based on the modifications, PYCO revises its overall valuations as follows:

Net Liquidation Value

Modified Alt Two: $ 556,800
All-SAW: $2,059,800

Going Concern Value

Modified Alt Two: $134,546 to ($4,993,454)[1]
All-SAW: $4,662,688 to ($1,936,312)
(range depends on rehabilitation)

Because rehabilitation must be taken into account, the greater of NLV or GCV is clearly NLV. PYCO accordingly offers the NLV figure for either Modified Alternative Two or for All-SAW. PYCO's NLV calculations have been prepared in a fashion which overstates in SAW's favor the actual NLV.

I. Background

Modifications. This Board's order of July 13 in this proceeding allows PYCO to submit modifications within "7 days after the latest of: (1) completion of physical inspection of SAW's [incumbent railroad South Plains Switching, Ltd's] lines, (2) receipt of documents, or (3) receipt of answers to interrogatories." Slip op. at 3, ordering ¶3.

Pursuant to this Board's July 13 order, PYCO conducted inspections on July 24 and passim.

PYCO received answers to some of its interrogatories and a smattering of documents on August 4, all limited to "Alternative Two."

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[1] Parentheses mean negative number.

On the basis of what PYCO has received to date, PYCO makes the discovery-related modifications set forth in Part II below.

Motion to compel. Under this Board's rules, motions to compel answers must be filed within 10 days of the expiration of the time to answer interrogatories. 49 C.F.R. § 1114.31(a) This Board provided SAW until August 4 to answer interrogatories, so the time for PYCO to file a timely motion to compel expires on August 14.

SAW declined to respond to any PYCO discovery except as pertained to Alternative Two. Under this spurious limitation, SAW declined to provide whole categories of information (e.g., tax returns) on the ground that the documents requested encompassed more than Alternative Two. Based on SAW's letter of August 4 indicating it requested until August 18 to put in a valuation case for "all-SAW," PYCO's counsel emailed SAW's counsel asking whether he would supplement his responses for all-SAW on that date. SAW's counsel indicated he would do so, or shortly thereafter. On this basis, PYCO's counsel indicated he would not move to compel at this time. However, in light of the time limitation in 49 C.F.R. § 1114.31(a), PYCO must file a motion to compel at this time in order to preserve its rights. Because PYCO understands that SAW intends to respond further on or shortly after August 18, PYCO requests that the motion to compel be held in abeyance until SAW files its case on all-SAW on August 18, or otherwise acts. At that time, SAW may make a complete response, at which time PYCO will withdraw this

motion to compel. If SAW does not make a complete response, PYCO will request that its motion to compel be heard. In addition to responding to the discovery on an all-SAW basis (which PYCO believes germane even as to issues relating to Alternative Two), PYCO specifically notes that it has received either no response or an inadequate response as to the following specific document requests:

Document requests (PYCO original FLA Exhibit P) --

8: sales of rail property (without limitation to what SAW believes is required to serve shippers)

11: SAW maintenance of way expenditures

23: tax returns

24: financial statements and loan applications

26: shipper contracts with SAW (this would include leases of track)

II. Modifications

A. Preliminary Statement

SAW did not contest PYCO's evidence concerning salvage value or property value (i.e., PYCO's estimates of net liquidation value). PYCO employs the same methodology for its revisions as to the alternatives discussed below as PYCO employed in the first instance.

B. Modification of Property to Be Acquired: from Avenue A West to BNSF Boundary

The chief modification PYCO makes relating to valuation is

with respect to the property to be acquired under Alternative Two. As a result of the inspection and discovery response, and in light of activities by SAW since PYCO filed its FLA, PYCO has determined that Alternative Two would not result in reliable or adequate rail service to PYCO. Acquisition of all the property in Alternative Two as originally framed would not serve the public convenience and necessity because SAW would continue to obstruct and to hinder service.

In order to permit adequate and reliable rail service to PYCO and other shippers, it is necessary for PYCO either to acquire the entirety of SAW, or to acquire the property described in the revised FLA Alternative Two (including the mainline) plus the remainder of the yard and "wye" areas. The only exception is that SAW may retain (a) the short spur track off track six on which SAW stores its engines and (b) the adjacent SAW office building.

1. Valuation changes. PYCO attaches as Appendix I a schematic map and a photographic map of the yard area as prepared by Hugo Reed & Associates, land surveyors, based on their work on July 24-26. The maps show the survey results of the lengths of track involved.

PYCO sets forth below estimated track lengths from its original FLA, and the measured lengths per Hugo Reed and Associates (land surveyors) on the west (SAW yard) side of the BNSF mainline:

Table One

track	FLA (p. 13 n.1)	survey Appendix I
main line [9298] (Ave. A to BNSF)	5000	5604
Track 1 (actually 2)	2100	2976
Track 5	2400	3341
Track 6	1100	3351
wye-west	*	1197
-east		1014
Additional Track		
Track 3		2713
Track 4		2461
bottling line[2]		400
portion of "Acme lead"[3]		1105
Total:	10600	24162

Note *: PYCO earlier estimated that the portion of track 6 and wye west it would acquire was 1100 feet.

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[2] The bottling line is necessary to reach PYCO's bottling plant on the north side of the yard. There is another short track which enters the PYCO property on the north side of the yard on which WTL parks its engines. PYCO believes it owns this track. To the extent it does not, it should be deemed included in this modification.

[3] The "Acme lead" leaves the yard in a northerly direction toward Acme Brick. PYCO has a crossing to its bottling plant that traverses this lead. In addition, if the lead were available to PYCO, then cars switched for PYCO plant one need not be backed over Avenue A.

As the table indicates, PYCO's earlier estimates (which were based upon estimates by SAW during the course of the alternative service proceeding in Finance Docket 34802) were low, and PYCO also has determined it must acquire certain additional trackage in order to permit service adequacy. The corrected total is 13,562 additional feet of track.

PYCO requested Montey Sneed, who inspected the trackage on July 24 and 25 and who furnished PYCO's estimates for materials (Revised FLA, Exhibit B) to estimate the salvage value of this additional trackage. His estimate is $81,300.23 for the additional 13,562 feet, as indicated in his Second Declaration, attached as Appendix III. The overall revised NLV for rail, ties, and materials is $252,000 for PYCO's modified Alternative Two.

In PYCO's original application, PYCO estimated the total acreage west of the BNSF mainline to be acquired at approximately six acres. Revised FLA at p. 13 n.6 and Blosser Appraisal (Exhibit D1, p. 4, property 3). Hugo Reed & Associates calculated the actual area of the yard based on maps and survey data to be eight acres. See Appendix II. The revised appraised value for that area is $192,000. See revised appraisal pages for Merle Blosser, Appendix IV. To that would be added the $147,000 for parcels east of Southeast Drive (see FLA Exhibit D1 at p. 4). The total is thus $339,000 for NLV land (assuming full fee title).

The net liquidation value for the modified Alternative Two is thus no greater than $252,000 (NLV track and ties) plus $339,000 (NLV land), or $591,000 for PYCO's modified Alternative Two.

There are no further changes to the net liquidation value of all of SAW. PYCO lacked sufficient title information (and SAW did not supply it) to measure and deduct SAW's several track retirements. Thus, we simply assumed that the original conveyance totals from BNSF continued to apply. The unit price of salvage and total amount of trackage remain the same.

2. Final adjustments to NLV to take into account SAW/Choo Choo deed. As part of SAW's discovery response on August 4, SAW finally furnished PYCO a copy of the deed (voided by this Board in its decision of August 3) of property in the SAW yard from SAW to Choo Choo Properties, Inc. A copy is attached as Appendix V. PYCO requested Hugo Reed & Associates (our surveyors) to analyze the deed. They have preliminarily located the property as a strip of land from 50 to 200 feet wide from Avenue A along the south side of the yard and including portions of the "wye." Hugo Reed & Associates estimate that the property encompasses 1.5 acres. Delilah Wisener testified under oath that Choo Choo paid SAW $1800 for this deed. See PYCO's Motion for Enforcement, etc., in F.D. 34890 [also filed in F.D. 34802, 34889, 34870, and 33753 (sub-no. 1)], Exhibit C (McLaren Dec., transcript at P. 70, line 20. Mrs. Wisener also testified that Choo Choo was not affiliated with SAW.

Id. transcript at p. 72, line 10. $1800 divided by 1.5 yields a price of $1200 per acre for all property in the SAW yard. Mr. Blosser (our appraiser) derived a value of $24,000/acre, but was unaware of the SAW to Choo Choo deed (it was never recorded), and has not have time to adjust his appraisal to take the deed into account.

If the value reflected in the deed were extrapolated to the entire SAW yard (and there is no reason not to do so), the yard's value would reduce from $192,000 ($24,000 times eight) to $9600 ($1200 times eight). This would reduce the net liquidation value for modified Alternative Two from $591,000 to $408,600 ($147,000 for land east of Southeast Drive, plus $9600 for the yard area, plus $252,000 for track, ties and materials). The net liquidation value for All-SAW would be reduced by $182,400, the difference between $24,000/acre and $1200/acre for eight acres, to $1,911,600. Since the SAW-Choo Choo sale also included some trackage in the areas of track 6 and the wye, the reductions to net liquidation value calculated herein as a result of the sale understate the reductions to which PYCO is entitled. However, as indicated, we have not had time to obtain an appraiser's opinion on this matter, having only received the deed on August 4, and having obtained a reliable estimate of the land encompassed only on August 9.

It is well-established that if a railroad like SAW agrees to a reduced sale/donation (as SAW did with Choo Choo here), it is

stuck with that result in determining net liquidation value as a matter of law in an "offer of financial assistance" proceeding under what is now 49 U.S.C. § 10904. See Iowa Terminal Railroad v. ICC, 853 F.2d 965 (D.C. Cir. 1988). There is no reason for a different result under 49 U.S.C. § 10907. As in an OFA proceeding, the railroad should get no more for a property than it contracted, even if the contract is superceded by an order of the Board.

Thus, the net liquidation value for SAW, as adjusted for its deal with Choo Choo, must be reduced by at least $34,200 (1.5 times $24,000/acre minus $1200/acre). This mandatory reduction then yields a final maximum NLV as follows:

Modified Alt Two: $ 556,800 ($591,000 minus 34,200)

All-SAW: $2,059,800 (2,094,000 minus 34,200)[4]

3. Trackage rights and other matters relating to joint operation.

a. trackage rights. Because PYCO is acquiring the entire SAW yard, SAW will need a trackage right to access tracks 3 and 4, and to move cars from the yard to its customers. We will employ the same methodology for calculation of trackage rights compensation as employed in Revised FLA Exhibit N, which SAW does not dispute.

SAW will have 100% use of tracks 3 and 4, plus shared use of the mainline and track number 6. We shall assume that one half the

[4] The $2,094,000 figure for All SAW NLV is explained in the original feeder line application filed in F.D. 34844, and incorporated in F.D. 34890.

volume on the mainline and track 6 is PYCO plant no.1, and the remainder is SAW. Total lengths of track for 3 and 4 are approximately 5170 feet. The main, track 6 and the wye-east is 9969 feet; SAW's share is one half; and dividing this sum in two yields 4985 feet. The sum of 4985 feet and 5170 feet is 10,154 feet. NLV per 5000 feet of track (per Revised FLA, Exhibit N) is $27,000. Thus, the total NLV for rail and ties for SAW trackage rights is approximately $54,000.[5] We shall assume the acreage involved is similarly split on a volume basis. PYCO's surveyors calculate the land area to be eight acres, which the appraiser values at $192,000 ($24,000/acre). If one half is attributed to SAW, the SAW share is $96,000. The total NLV is thus $150,000. Multiplying this by 14.1% (railroad pre-tax cost of capital) yields $21,150 per year for trackage rights.

BNSF has informed PYCO that the current escalator for SAW's division of revenues with BNSF is "50% RCAF (U)-Q4" with each adjustment due January 1. PYCO proposes the same adjustment factor for the trackage rights payment.

b. <u>single switcher into and out of BNSF yard</u>. BNSF Railway has informed PYCO that it does not wish more than one switch railroad operating in and out of the BNSF yard. Under the alternative service order in F.D. 34802, PYCO's alternative service

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[5] SAW will also employ other portions of track such as the Acme Lead. PYCO excludes these bits of trackage for ease of computation. This approach favors SAW.

provider moves cars for SAW customers as well as PYCO from the BNSF yard to the SAW yard, receiving a fee from BNSF. We understand that BNSF is not deducting this fee from the amount paid to SAW from the division of tariff. PYCO is prepared to assume that PYCO's operator (presumably WTL) will negotiate a permanent arrangement with BNSF for moves of SAW traffic between yards, and we do not currently believe the matter requires the Board's attention.

4. Rationale for modification. The fundamental reason that PYCO is modifying the property to be acquired in the area of the yard is that Alternative Two as originally defined by PYCO will not result in a railroad which is able to provide adequate rail service to PYCO, Attebury and Compress. After PYCO filed its original FLA (in F.D. 34844), and unbeknown to PYCO when PYCO filed its revised FLA (F.D. 34890), SAW purported to transfer property in the rail yard to Choo Choo Properties, Inc. (owned by Larry Wisener), which then proceeded to terminate PYCO's use of an industrial crossing as well as a variety of PYCO leases, licenses and crossing rights. SAW viewed Choo Choo as a vehicle from which to retaliate against PYCO for invoking the jurisdiction of this Board in F.D. 34890. There is no reason to expect different conduct in the future. The only realistic protection of PYCO's rail dependent operations and the only effective means to ensure adequate rail service to PYCO is acquisition of the entirety of the SAW yard area.

There are additional reasons that unified ownership of the yard by the new switching operation is needed to ensure adequate rail service. First, SAW has repeatedly exhibited an unwillingness to participate in morning conference calls with both BNSF and WTL to ensure safe and efficient operations. Notwithstanding the Board's pointed order in its decision issued August 3, SAW still does not participate in telephone conferences to coordinate service. In addition, SAW has continued to violate protocol hours of operation since the inception of alternative service in F.D. 34802. Under the circumstances, safe and adequate operation cannot be ensured unless control of dispatch throughout the yard is in the hands of the new switching operation.

Second, the yard needs maintenance and rehabilitation. It is not possible efficiently to maintain or to rehabilitate, or even to access, the tracks specified in PYCO's original Alternative Two without passing over property that would remain in SAW hands in that Alternative. Since SAW has forbidden PYCO entry on its property, and refuses otherwise to cooperate, the only reasonable expectation is further lack of cooperation, passive-aggressive obstructionism, and other abusive conduct to prevent or unreasonably increase maintenance, rehabilitation and other operational costs. PYCO needs control of all the tracks adequately to allow and to ensure proper maintenance and rehabilitation. See Gene Davis Statement, Appendix VI, at p. 10.

Third, PYCO's rail dependent operations include crossings over the Acme Lead, use of track connecting to the bottling plant on the north, and use of track adjacent to the bottling lead by WTL to store its equipment. This requires more of the yard area than that identified in PYCO's original Alternative Two.

Fourth, PYCO has repeatedly indicated concern for the safety of its employees, and the employees of its operator, should control over the yard have to be shared with SAW. To assist in meeting minimum safety goals, PYCO needs ownership of the yard and control of dispatch.

Fifth, once PYCO acquires additional trackage in the yard area, it is obviously inappropriate to leave SAW with small or isolated remnants, for those may be of limited residual value.

These concerns have arisen due to SAW's conduct since the Director dismissed PYCO's original FLA (F.D. 34844) and due to expert analysis of the results from the inspection on July 24-26. Recent events as well as discovery results indicate that Alternative Two as originally defined by PYCO will not result in adequate rail service to PYCO. As a result of these factors, PYCO must modify, and hereby does modify, its Alternative Two to include all the yard area from Avenue A on the west (SAW has a customer west of Avenue A) to the BNSF mainline. PYCO would acquire all of the yard trackage and spurs up to the northern property lines of the yard, and south to the clearpoint of the wye switch. This

would allow PYCO to repair all yard switches and tracks, so any carrier operating in the yard need not fear derailments, and so that the yard may be operated safely and in a fashion that permits PYCO's rail dependent operations to continue. SAW would retain the short spur off the main on which SAW stores its engines, and SAW would retain its small adjacent office building. PYCO would grant to SAW trackage rights to use tracks 3 and 4 to spot cars for movement to BNSF's yard, and trackage rights over the main and east side of the "wye" for that purpose. PYCO (or its operator) would retain control over dispatch.

C. Modifications to Going Concern Values (GCV) for (Modified) Alternative Two and All-SAW

As the Board knows, a majority of shippers on the entirety of SAW filed written statements by August 2 corroborating that SAW service is inadequate and unreliable. The majority requested that the Board allow PYCO to acquire all of SAW. It is PYCO's view that this would be far preferable for the public convenience and necessity than limiting PYCO's acquisition to Alternative Two. Indeed, PYCO with the assistance of its experts has determined that Alternative Two must be expanded in order to work. In any event, it is certainly the position of SAW and for that matter Pioneer Railcorp (KJRY), which among other things both asserted that Alternative Two was merely "cherry-picking." Since PYCO's application was complete by August 2 as to all-SAW under the Board's construction of § 10907 requirements, and since the Board

indicated that KJRY had until August 4 to file a competing application for the entirety of SAW, there is no prejudice to any party in allowing PYCO now to pursue all of SAW.

PYCO placed complete valuation information for the All-SAW alternative of record when we filed our original FLA in F.D. 34844 under cover letter dated May 4. That entire showing was incorporated into F.D. 34890. By letter filed August 4, SAW indicated that it would be prepared to file its case on valuing the entirety of SAW by August 18. August 18 is also the due date for any SAW response to PYCO's discovery-related modifications set forth herein.

In order to facilitate this proceeding, PYCO herein sets forth not only its revisions to Alternative Two GCV resulting from discovery, but also its revisions to All-SAW GCV incorporating discovery to date.

The chief new inputs to GCV analysis are as follows: (1) revised calculations for site-specific maintenance expenses and rehabilitation expenses as a result of on-site inspection (pursuant to this Board's order permitting entry on the premises on July 24) by an expert engineer (Gene Davis) from R.L. Banks & Associates; (2) revised information on SAW's revenues. Mr. Davis has prepared in verified form an extensive report summarizing his inspection results. As to SAW's revenues, PYCO learned during the course of discovery that R.L. Banks & Associates overestimated SAW's

revenues. It turns out that once carloadings exceed 5000 cars per year, SAW's share of the BNSF tariff is reduced. PYCO also learned that SAW claimed some revenues from other sources. PYCO's economic expert (Charles Banks of R.L. Banks & Associates) determined that the best evidence of SAW's overall revenues was thus what SAW asserted them to be. Mr. Banks's calculation of GCV, based on the engineering inspection of Mr. Davis, and based on SAW's own representation of its revenues, is set forth in Tables 5 through 8 of his verified report, attached hereto as Appendix VII.

In summary, Mr. Banks concluded as follows, using SAW's actual revenue figures (Banks tables 5-8)[6]:

	GCV before rehab	GCV with 90# rehab	GCV with 112/5# rehab
Alt Two:	360,206	(1,315,794)	(2,450,794)
Modified Alt Two:	134,546	(2,981,454)	(4,993,454)
Remaining SAW	4,755,438	3,803,438	3,284,438
All-SAW	4,662,688	594,688	(1,936,312)

Mr. Davis in his statement corroborates the deteriorated nature of the SAW lines, and the need for rehabilitation. Appendix

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[6] In tables 1 to 4 of his supplemental statement, Mr. Banks makes adjustments solely for site specific costs and rehabilitation revisions based on Mr. Davis's inspection. Tables 5 to 8 include the Davis adjustments and the adjustment for SAW revenue as declared by SAW witness Plaistow. Table 9 to Mr. Banks's supplemental statement does a side-by-side comparison of the adjustments for Davis only, and for both Davis and Plaistow, information.

VI at pp. 2-3, 5 & 26. The fact that rehabilitation may not need to occur immediately (assuming arguendo that such a "fact" is true) is irrelevant if rehabilitation is needed. No one contends that railroad tracks and ties are immortal, and it is senseless to maintain that SAW's tracks and ties, which have not been maintained except on a deferred basis, are the exception. Rehabilitation expense for that track is noted in present value; it will necessarily go up if postponed. At its present value, it is a liability item appropriate to deduct from the present value of a net income stream to determine GCV. The situation is analogous to a house with damage from flooding or termites. Although it need not be repaired immediately, no one in their right mind would voluntarily pay for the house as if it were undamaged. The valuation of railroad property under §§ 10904 and 10907 is based on assumptions of willing buyer/willing seller, no coercive situation forcing the hand of either party, and rational conduct.

The GCV for modified alternative two (and for original alternative two for that matter) is less than NLV regardless of rehabilitation costs.

The GCV for all-SAW is less than NLV whether 90# rehabilitation or 112/115# rehabilitation is performed.

Since any relevant GCV is less than the NLV, and since 49 U.S.C. § 10907 requires payment of the greater of NLV or GCV, the GCV for SAW's properties at issue in this proceeding is not

controlling. The NLV is controlling.

PYCO notes that the computations show that the "remaining SAW" after PYCO/Attebury/Compress is removed has a positive GCV even with rehabilitation. PYCO's expert indicates that this is a function of the information provided by SAW's witness Plaistow. It demonstrates that PYCO's modified alternative two will enhance the value of the remainder of SAW.

III. Reservations

1. Although evidence and argument submitted herein is obviously contrary to elements of SAW's case in chief filed on August 2, this submission (in accordance with this Board's scheduling orders) is not intended as a full response or rebuttal to SAW's August 2 filing.

2. PYCO will file an opposition under separate cover on August 14 to this Board's accepting KJRY's "competing application." That "competing application" is subject to a number of fundamental flaws and fatal obstacles.

IV. Conclusion

Based on discovery to date, PYCO modifies its feeder line application as indicated above, and pursuant to 49 U.S.C. § 10907 offers to pay the following for "modified Alternative Two" and, preferably, for all-SAW:

Modified Alt Two: $ 556,800

All-SAW: $2,059,800

PYCO continues to request action by this Board so that a new rail provider is in place in Lubbock by October 23, 2006.

Respectfully submitted,

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Verification
Appendix I -- surveyor maps
Appendix II -- surveyor area estimates
Appendix III -- Second Sneed Declaration
Appendix IV -- Blosser appraisal revisions
Appendix V -- Choo Choo deed
Appendix VI -- Gene Davis V.S.
Appendix VII -- Charles Banks V.S.

PYCO

PYCO Industries, Inc.
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Verification

Pursuant to 28 U.S.C. 1746, I declare and verify under penalties of perjury under the laws of United States of America that I am the Senior Vice President of Marketing for PYCO Industries, that I have been employed by PYCO for fifteen years, that I am responsible for overseeing rail service for PYCO, that I have read the foregoing, and that the foregoing is true and correct.

Executed on: August 9, 2006

Robert Thoey

Certificate of Service

By my signature below, I certify service upon the following counsel of record by express (next business day) by timely deposit with an express service provider on 11 August 2006:

Thomas McFarland
208 South LaSalle St., Suite 1890
Chicago, IL 60604-1112 (SAW)

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Baker & Mullins
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Washington, D.C. 20037 (KJRY)

William Sippel
Fletcher & Sippel
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1920 N Street, NW #800
Washington, DC 20036 (WTL)

Adrian Steel
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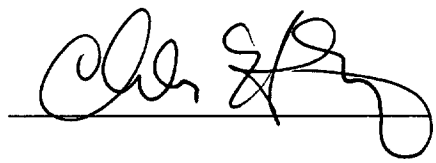

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PYCO INDUSTRIES, INC.'s
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Appendix VI -- Gene Davis V.S.

Appendix VII -- Charles Banks V.S.

APPENDIX I

SUBMITTED SEPARATELY

Appendix II

c.montange

From: "Gary McLaren" <gmclaren@sbcglobal.net>
To: "'c.montange'" <c.montange@verizon.net>
Cc: "'Gail Kring'" <gkring@pycoindustries.com>; "'Robert Lacy'" <rlacy@pycoindustries.com>
Sent: Wednesday, August 09, 2006 12:50 PM
Subject: FW: Tract Descriptions

-----Original Message-----
From: Bob Gingery [mailto:bgingery@hugoreed.com]
Sent: Wednesday, August 09, 2006 1:43 PM
To: gmclaren@sbcglobal.net
Subject: Tract Descriptions

The following are the rough tract description you requested.

The Quitclaim Deed (Deed No. 61401) tract description contains approximately 1.5 acres of land.

The switch tract (100' wide), extending from the "Acme Line" centerline intersection with the "Main Line" and extending Southeasterly along the "Main Line" ±3475' to the centerline intersection of the "Main Line" with the "Number 5 Track" contains approximately 8.0 acres of land.

Let me know if there is anything further I can do to help with this matter.

Robert L. Gingery, CFM
Sr. Survey Technician
Manager of Survey Drafting

Hugo Reed & Assoc. Inc
1601 Avenue N
Lubbock TX 79401
(806) 763-5642

Appendix III

BEFORE THE
SURFACE TRANSPORTATION BOARD

PYCO INDUSTRIES, INC. --	)	
FEEDER LINE DEVELOPMENT --	)	F.D. 34890
SOUTH PLAINS SWITCHING LTD.	)	

SECOND DECLARATION
Of MONTEY SNEED

I, Montey Sneed, make this Second Declaration pursuant to 28 USC § 1746, in support of the feeder line application filed by PYCO Industries, Inc. (PYCO), in F.D. 34890.

1. On July 24 and 25, I inspected the tracks of South Plains Switching, Ltd. (SAW), under the order permitting entry issued by this Board commencing July 24. The inspection confirmed the statements made in my initial Declaration (Exhibit B to PYCO feeder line application) as filed in F.D. 34844 and incorporated by PYCO in this proceeding. I have no significant changes to make in my per unit valuations.

2. Based on information furnished to West Texas & Lubbock by Mr. McFarland, I based my salvage estimate for PYCO's Alternative Two on PYCO acquiring 25,560 feet of track, plus 1100 feet of Track 6 and the west side of the wye. I also prepared a salvage estimate for approximately 5000 feet of track leading from the SAW yard to the BNSF yard, on which PYCO would acquire a crossing right. As a result of inspection, consultation with experts, and experiencing SAW's conduct, it is my understanding that PYCO has concluded that in order to obtain adequate rail service, it must acquire the entire SAW yard. Based on my knowledge as a former employee of Fort Worth & Denver, then Burlington Northern, and then ATSF in the Lubbock area, I concur in this assessment.

3. Based on information provided by Hugo Reed & Associates, which surveyed the track in the yard area during the inspection, PYCO would acquire an additional 13,562 feet of track (this represents adjustments upward for the lengths of the main line, tracks 1, 5, 6 and the wye, and the addition of tracks 3, 4, PYCO's bottling line, and a portion of the Acme lead). The additional trackage is all 85 or 90 pound rail. In a fashion favorable to SAW, I will assume all 90 pound. As indicated previously, ties are in very poor shape. I believe they would have a net negative value (due to disposal costs of waste ties), but in a fashion favorable

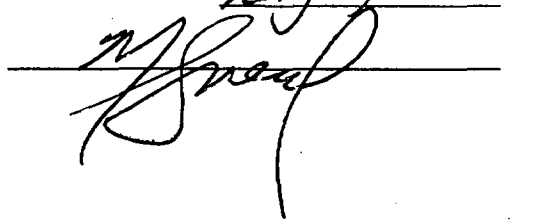
to SAW, I will assume a wash. I have determined that the price paid for rail steel and the cost of take-up have not materially changed since my last statement. Appendix III of my first Declaration lays out the value for 5000 feet of track in such a situation (NLV is $ 26,973.54/5000 feet). Scaling this up to 13,562 feet yields a sum of $81,300.23. The total NLV for track, tie, and materials for PYCO's revised Alternative Two (i.e., the entire yard area and tracks) is thus $143,328.87 (original estimated length) plus $26,973.54 (5000 feet of main line from SAW yard to BNSF) plus $81,300.23 (additional trackage and correction of underestimates of track lengths). The sum of these three figures is $251,602,63, which I would round to $252,000.

4. No change is necessary for the NLV for all SAW. If anything, that NLV should be lower due to several track removals, apparently by SAW.

5. My inspection specifically confirmed that SAW engages in a deferred maintenance program. Under such a program, regular maintenance is not performed. Many, and I would say virtually all, ties outside the yard area are buried, and if exposed to air would likely disintegrate. Gauge is maintained with angle bars, and repairs apparently made only as derailments occur. The FRA inspector (whom I met on the premises on July 24) told me that the entire track was excepted status, so there was essentially nothing FRA could do to get it repaired.

Pursuant to 28 U.S.C. § 1746, I declare and verify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on Aug. 9, 2006



Appendix IV

EXECUTIVE SUMMARY

Type of Property: Railroad Right of Way Land

General Location: Lubbock, Texas; Southeast industrial neighborhood from 26th Street and Avenue A on the northwest to Southeast Drive and Loop 289 on the southeast

Land Use Designation: East Sector refers to Rail Track right of way land east of MLK Boulevard
West Sector refers to Rail Track right of way land west of MLK Boulevard

SALES COMPARISON APPROACH

Value Indicated by the Sales Comparison Approach:

	Industrial Land West Sector	
	Direct Comparison	Eight Comparable Land Sales/Listings
	Per Unit Value Indication	$0.55 per square foot
	Industrial Land East Sector	
	Direct Comparison	Seven Comparable Land Sales/Listings
	Per Unit Value Indication	$4,000 per acre

Property One:	All of "SAW" Railroad Right of way
Land Size:	2,921,901+- square feet in West Sector
	52.537+- Acres in East Sector
Market Value:	$1,817,000

Property Two:	All of "SAW" Railroad Right of way lying east of Southeast Drive
Land Size:	36.657+- acres
Market Value:	$147,000

Property Three:	An 8.0 Acre Tract lying East of Avenue A, South of Coronado Drive
Land Size:	261,360+- square feet
Market Value:	$192,000

Effective Date of Appraisal April 21, 2006

The previous computations of rail track right of way land area have been supplied by the Center for Geospatial Technology at Texas Tech University. They are based on the assumption the identified line segments, right of way widths, and lengths are under full fee interest ownership. Should further information indicate the full fee interest land area is different from the calculations provided, revisions to this appraisal report will be necessary.

An aerial photograph that illustrates these calculations has been prepared by the Center for Geospatial Technology and is submitted as an exhibit in the addenda of this report.

These total land areas as charted for the West Sector and the East Sector are divided according to specific railroad track usage areas. The following descriptions will be applied for the land valuations.

Area One

The rail trackage to be included for Area #1 is comprised of all of the West Sector and all of the East Sector, save and except, the track sections designated as Track #231 and Track #9200. This amounts to a total land area of 2,921,901+- square feet in the West Sector and 52.537+- Acres in the East Sector.

Area Two

The rail trackage to be included for Area #2 is comprised of all of the East Sector land lying east of Southeast Drive. This amounts to a total land area of 36.657+- Acres.

Area Three

The land area to be included for Area #3 is comprised of a 8.00 acre tract of land to be located adjacent to the south side of Coronado Drive and lying east of Avenue A.

The subject of this appraisal is railroad right of way lands in a defined area for the southeast sector of the city. This rail track area is pictured, as we look east from Avenue A just south of 26th Street.

This tract of land is referred to as Area Three and includes eight acres along the north side of Coronado Drive just east of Avenue A.

FINAL OPINION OF VALUE

The appraisal process for the valuation of this vacant land has been completed through the application of the Sales Comparison Approach. Direct analysis of comparable sales has yielded a good deal of information pertaining to the land market for property having similar characteristics to the land under appraisal.

A cross comparison analysis with the West Sector sales to the land under appraisal presents a most probable value range of $0.50 to $0.50 with the best specific conclusion based on $0.55 per square foot. A cross comparison analysis with the East Sector sales to the land under appraisal presents a most probable value range of $3,500 to $4,500 with the best specific conclusion based on $4,000 per acre. These per unit values may be applied to the respective land areas for the four designated areas under appraisal.

After proper consideration of data within the appraisal process, the most reasonable and supportable Market Value for the whole property under appraisal is concluded to be

Area	Size	Value Per Unit	Indicated Value
One			
West Sector	2,921,901	$0.55	$1,607,046
East Sector	52.637	$4,000	$210,148
			$1,817,194
		Rounded	**$1,817,000**
Two			
East Sector	36.657	$4,000	$146,628
		Rounded	**$147,000**
Three			
West Sector	348,480	$0.55	$191,664
		Rounded	**$192,000**

Effective Date of Appraisal...April 21, 2006

Appendix V

After Filing Return to: CHOO CHOO PROPERTIES, INC, P. O. BOX 64420, LUBBOCK, TEXAS 79464-4420

COPY

DEED NO.: 61401

QUITCLAIM DEED

THE STATE OF TEXAS §
§ **KNOW ALL MEN BY THESE PRESENTS:**
COUNTY OF LUBBOCK §

THAT the **SOUTH PLAINS SWITCHING LTD. CO.**, a Texas Limited Liability Company, of the County of Lubbock, State of Texas, (hereinafter "Grantor") for and in consideration of the sum of TEN DOLLARS AND NO/100 DOLLARS ($10.00) and other good and valuable consideration, in hand paid by the grantee herein named, the receipt and sufficiency of which is hereby acknowledged, has **QUITCLAIMED**, and by the presents does **QUITCLAIM** unto **CHOO CHOO PROPERTIES, INC. of P. O. Box 64420, Lubbock, Texas 79464-4420** (hereinafter "Grantee"), all of its right, title and interest in and to the real property situated in Lubbock County, Texas, more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter "the Property").

TO HAVE AND TO HOLD all of Grantor's right, title and interest in and to the Property and premises unto Grantee, its successors and assigns forever, so that neither Grantor nor its legal representatives or assigns shall have, claim or demand any right or title to the Property, premises or appurtenances or any part thereof.

This conveyance is made without warranty of any kind, express or implied and no covenant of warranty shall be implied from the use of any word or words herein contained, including without limitation any warranty that might arise by common law, or the warranties in Section 5.023 of the Texas Property Code (or its successor). By the acceptance of this deed,

Grantee takes the Property "AS IS". Grantor has not made and does not make any representations as to the physical condition, layout footage, expenses, zoning, operation, or any other matter affecting or related to the Property, and Grantee hereby expressly acknowledges that now such representations have been made. Grantor makes no other warranties, express or implied, of merchantability, marketability, fitness or suitability for a particular purpose or otherwise except as set forth and limited herein. Any implied warranties are expressly disclaimed and excluded.

EXECUTED on this the 13th day of June, 2006.

South Plains Switching, Ltd., Co.

Delilah Wisener

By: Delilah Wisener, Owner

THE STATE OF TEXAS §
§
COUNTY OF LUBBOCK §

This instrument was acknowledged before me on this the 13th day of June, 2006 by DELILAH WISENER, Owner of South Plains Switching, Ltd. Co., a Texas Limited Liability Company, on behalf of said company.

DALE A. ROBINSON
Notary Public, State of Texas
My Commission Expires
August 05, 2006

Dale A. Robinson

NOTARY PUBLIC, STATE OF TEXAS

Dale A. Robinson

Printed Name of Notary

My Commission Expires: August 05, 2010

EXHIBIT "A".

BEGINNING at a point in the East line of U. S. Highway 87 (Avenue "A") and the present South Property line of the South Plains Switching Ltd., Co. which is Forty-six and Four Tenths Feet (46.4') distance Southwesterly from and parallel with the Original Main Track of the Fort Worth and Denver South Plains Railway Company (Predecessor Company) for the Beginning Corner of this Tract, whence the Southeast Corner of Section 7, Block "B" and the Southwest Corner of Section 5, Block "B", Lubbock County, Texas bears South Two Thousand Six and One Hundredths Feet (2,006.01') and East Sixty-nine and Ninety-five Hundredths Feet (69.95');

THENCE North Two Degrees Twelve Minutes Forty-six Seconds (02° 12' 46") West along the East line of U. S. Highway 87 (Avenue "A"), Forty and Forty-six Hundredths Feet (40.46') to a point for the Northwest Corner of this tract being a point Southwesterly and Eight and Five Tenths Feet (8.5') distance and parallel with the Original Main Track of the former Fort Worth and Denver South Plains Railway Company;

THENCE South Seventy-one Degrees Thirty-six Minutes Forty-five Seconds (71° 36' 45") East Seven Hundred Thirty-one and Four Hundredths Feet (731.04') to a corner of this tract being a point Southwesterly and Eight and Five Tenths Feet (8.5') Distance from and parallel with the Original Main Track of the former Fort Worth and Denver South Plains Railway Company;

THENCE Southeasterly, along the arc of a curve to the right, Sixty-five and Eighty-three Hundredths Feet (65.83') to a corner, said curve has a radius of Five Hundred Ninety-three and Five Hundredths Feet (593.05'), and central angle of Six Degrees Twenty-one Minutes Thirty-five Seconds (6° 21' 35") and a cord that bears South Sixty-eight Degrees Twenty-five Minutes Fifty-eight Seconds (68° 25' 58") East a distance of Sixty-five and Seventy-nine Hundredths Feet (65.79') being a point Eight and Five Tenths Feet (8.5') distance from and parallel with the centerline of the Switching Lead Track on the West End of the Rail Yard;

THENCE South Sixty-Five Degrees Fifteen Minutes Ten Seconds (65° 15' 10") East parallel with the Switching Lead Track on the West End of the Rail Yard, a distance of Five Hundred Sixty-five and Eight Hundredths Feet (565.08') to a corner being a point Seventy-four and Seventy-four Hundredths Feet (74.74') distance from and parallel with the Original Main Track of the former Fort Worth and Denver South Plains Railway Company;

THENCE Southeasterly, along the arc of a curve to the left, Eighty-five and Eight Tenths Feet (85.8') to a corner, said curve has a radius of Seven Hundred Seventy-two and Ninety-five Hundredths Feet (772.95'), a central angle of Six Degrees Twenty-one Minutes and Thirty-five Seconds (6° 21' 35") and a cord that bears South Sixty-eight Degrees Twenty-five Minutes Fifty-eight Seconds (68° 25' 68") East a distance of

Eighty-five and Seventy-five Hundredths Feet (85.75') to a corner being a point Seventy-nine and Five Tenths Feet (79.5') distance from and parallel with the Original Main Track of the former Fort Worth and Denver South Plains Railway Company;

THENCE South Seventy-one Degrees Thirty-six Minutes Forty-five Seconds (71° 36' 45") East One Thousand Twenty-two and Eight Tenths Feet (1,022.8') to the Northeast corner of this tract and a point Southwesterly and Seventy-nine and Five Tenths Feet (79.5) distance from and parallel with the Original Main Track of the former Fort Worth and Denver South Plains Railway Company;

THENCE South Eighteen Degrees Twenty-three Minutes Fifteen Seconds (18° 23' 15") West One Hundred Nineteen and Forty-eight Hundredths Feet (119.48') to the Southeast corner of this tract and the Northeast corner of Lot 3 Plains Cooperative Oil Mill Addition to the City of Lubbock, Lubbock County, Texas;

THENCE Northwesterly, along the arc of a curve to the left, Two Hundred Twenty-four and Seventy-six Hundredths Feet (224.76'), said curve has a radius of Three Hundred Seventy-four and Six Hundredths Feet (374.06'), a central angle of Thirty-four Degrees Twenty-five Minutes and Forty Seconds (34° 25' 40") and a cord that bears North Forty-Seven Degrees Thirty-six Minutes and Forty-two Seconds (47° 36' 42") East Two Hundred Twenty-one and Four Tenths Feet (221.4') to a corner being a point Southwesterly One Hundred Eight and Nine Tenths Feet (108.9') distance from and parallel with the Original Main Track of the former Fort Worth and Denver South Plains Railway Company;

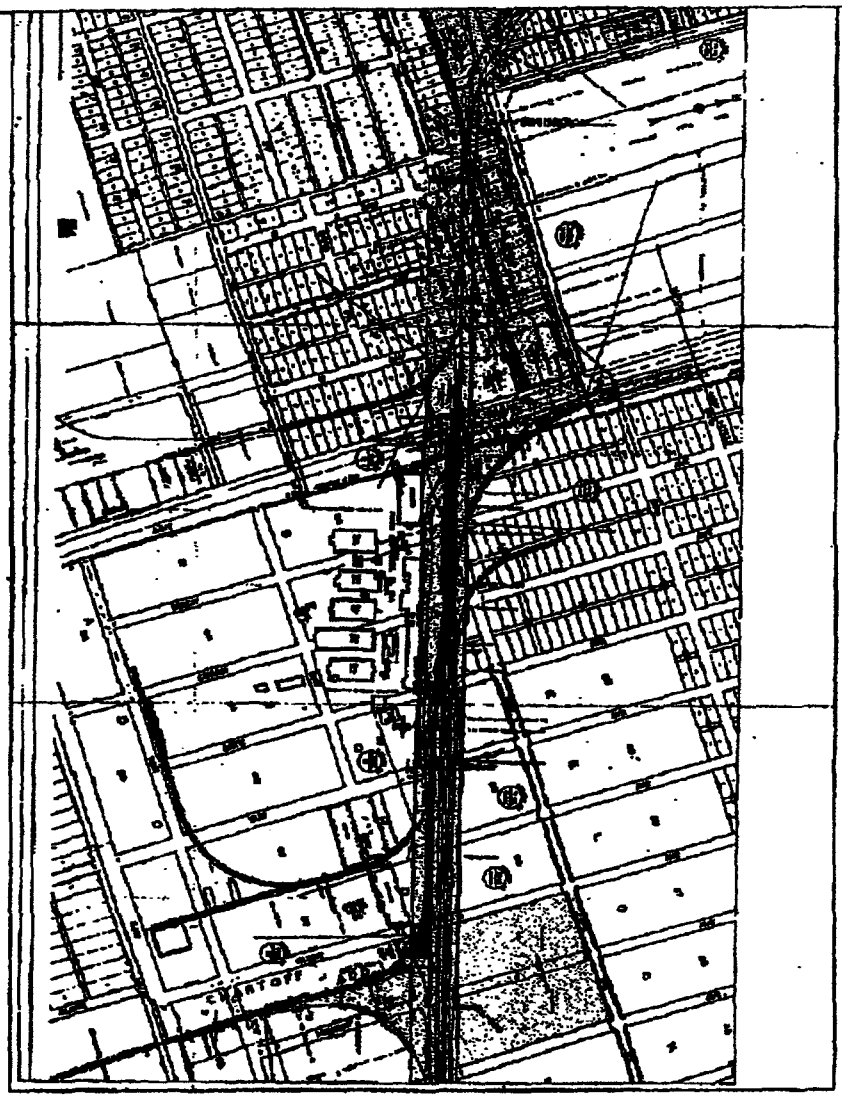
THENCE North Sixty-two Degrees Forty-five Minutes and Twenty Seconds (62° 45' 20") West Fifty-eight and Fifty-two Hundredths Feet (58.52') to a corner being Southwesterly and Ninety-nine and Nine Tenths Feet (99.9') distance from and parallel with the Original Main Track of the former Fort Worth and Denver South Plains Railway Company;

THENCE Northwesterly, along the arc of a curve to the left, Ninety-nine and Ninety-five Hundredths Feet (99.95'), said curve has a radius of Eight Hundred Ninety-one and Seven Hundredths Feet (891.07'), a Central Angle of Six Degrees Twenty-five Minutes Thirty-seven Seconds (6° 25' 37") and a cord that bears North Sixty-eight Degrees Twenty-two Minutes Forty-five Seconds (68° 22' 45") West Ninety-nine and Nine Tenths Feet (99.9') to a corner being a point Southwesterly Ninety-four and Three Tenths Feet (94.3') distance from and parallel with the Original Main Track of the former Fort Worth and Denver South Plains Railway Company;

THENCE North Seventy-one Degrees Sixteen Minutes Forty-seven Seconds (71° 16' 47") West Five Hundred Sixty-nine and Thirty-three Hundredths Feet (569.33') to a corner being Southwesterly Ninety-one Feet (91.0') distance from and parallel with the Original Main Track of the former Fort Worth and Denver South Plains Railway Company;

THENCE North Sixty-eight Degrees Four Minutes Forty-nine Seconds (68° 04' 49") West Seven Hundred Twenty-five and Forty-one Feet (725.41') to a corner being Southwesterly Forty-six and Three Tenths Feet (46.3') distance from and parallel with the Original Main Track of the former Fort Worth and Denver South Plains Railway Company;

THENCE North Seventy-one Degrees Thirty-six Minutes Forty-five Seconds (71° 36' 45") West Eight Hundred Feet (800') to the place of beginning and the Southwest corner of this tract.



Graphic Scale

Exhibit "A"

Drawing No. 61401

Sheets	Choo - Choo Properties, Inc.	South Plains Switching, Ltd, Company	
Date/ Date/	P. O. Box 64420 Lubbock, TX 79464	P. O. Box 64299 -- Lubbock, TX 79464 Phone: 806-828-4841 -- Fax: 806-828-4863	

Appendix VI

Before The Surface Transportation Board
STB Finance Docket No. 34890
PYCO Industries, Inc., et al. – Feeder Line Application -- Lines of South Plains Switching, Ltd. Co.

Verified Statement
of
Gene A. Davis, P.E.

Before The Surface Transportation Board
STB Finance Docket No. 34890
PYCO Industries, Inc., et al. – Feeder Line Application -- Lines of South Plains Switching, Ltd. Co.

Verified Statement
of
Gene A. Davis, P.E.

Table of Contents

Tables

Before The Surface Transportation Board
STB Finance Docket No. 34890
PYCO Industries, Inc., et al. – Feeder Line Application -- Lines of South Plains Switching, Ltd. Co.

Verified Statement
of
Gene A. Davis, P.E.

Table of Contents
(concluded)

Tables
(continued)

Exhibits

Before The Surface Transportation Board
STB Finance Docket No. 34890
PYCO Industries, Inc., et al. – Feeder Line Application -- Lines of South Plains Switching

Verified Statement
of
Gene A. Davis, P.E.

Qualifications

I am Gene A. Davis, P.E., a consultant with the firm of R.L. Banks & Associates, Inc. (RLBA), a railroad transportation consulting firm comprised of engineers, economists and planners, located at 1717 K Street, NW, Washington, DC 20036. My title is Director, Transportation Engineering and my qualifications are detailed in Exhibit A. I appear in this proceeding on behalf of PYCO Industries, Inc (PYCO).

Scope of Testimony

PYCO requested RLBA to further refine the going-concern values (GCVs) presented by Charles H. Banks in his Verified Statement relating to this feeder line application via an on-site, physical inspection of existing conditions on select South Plains Switching, Ltd. Co. (SAW) tracks. Understanding that track conditions are components of the subject GCVs and given that upgrade and maintenance costs affect those values, I physically inspected the tracks and related switches described in the Verified Statement of Mr. Banks as the *Limited Customer Scenario* (hereafter *Alternative Two*) accompanied by Montey Sneed. I additionally viewed conditions on tracks known as the *Remaining Customer Scenario* properties via public road crossings and locations where roads ran parallel to the subject tracks. The physical inspection

was used to reflect more accurately actual upgrade (rehabilitation) and maintenance needs that are the basis of Tables 15 through 26 of Mr. Banks' Verified Statement.

Information Sources

My primary information source is an on-site physical inspection of the subject property on July 24 and 25, 2006. I have also reviewed the Verified Statement of Montey Sneed filed with PYCO's feeder line application.

Description of Existing Track Conditions

Existing SAW track conditions in the Lubbock area are typical of those associated with a switching carrier which does not implement a maintenance program for a long period of time. On the day of inspection, the track demonstrated poor to fair surface conditions. Track is mostly constructed of 85 and 90 pound per yard regular, jointed rail, timber ties, single shoulder tie plates, spikes and some rail anchors. The subject rail was mostly rolled in the 1920's and shows signs of severe wear with some areas likely having been transposed in the past from other locations. Other signs of rail being beyond or approaching the limits of its useful life are broken rails (contained within joint bars) as illustrated in Exhibit B Photo # 1 of the main track in the SAW Yard. Many rails are flattened due to age and/or tonnage, with metal overflow breaking on the field side of the rail ball.

Overall tie condition is poor, leading to the surface irregularities previously mentioned (Exhibit B Photo # 2 is an example in a switch area) and some observed locations of wide gauge. In many areas, the track is either partially or completely filled with dirt, sand, ballast or slag, further preventing a thorough inspection of tie conditions. Where ties are able to be seen, most exhibit signs of being weathered and installed many years ago. Mr. Sneed and I checked all the curves contained within *Alternative Two* and observed moderate to excessive wide gauge in various locations; however, the worst was on the ACME Brick Lead, with one spot about fifteen feet long being 58 inches, or one and one-half inches wider than standard (56 ½ inches). Another location (also about 15 feet in length) measured one inch wider than standard. During my

inspection, a Federal Railroad Administration (FRA) inspector informed me that all SAW's lines were classified as "Excepted Track." This allows gauge to be 58 ¼ inches before it becomes a defect[1]. While the locations identified as having excessive gauge may not be a defect under FRA guidelines, they are illustrative of an attitude of allowing track conditions to deteriorate as much as possible before making necessary repairs. While many switching yards are comprised of FRA Class 1 tracks, and a few operate under excepted track conditions, allowing the track structure, particularly the turnout areas, to reach the level of deterioration exhibited by SAW's tracks illustrates an attitude of disregard for track conditions. Many locations are held together with steel gauge rods and scattered fit ties that have been spotted in to help hold gauge.

Turnouts are primarily constructed of 85 and 90 pound rail with either # 7 or # 9 rail bound manganese (RBM) frogs. Exceptions to that general description include Track 9200 east of the BNSF main track which has # 11 spring frogs on each end and the east end SAW Yard turnout between # 2 and # 3 tracks which is constructed of 115 pound rail. Turnout conditions are particularly troubling in that almost every switch point is worn and many do not fit properly to the stock rail; for example, the switch point at the west end of SAW Yard Track # 2, as seen in the Photo # 3 of Exhibit B. Many turnouts exhibit poor switch tie conditions, including defective head block ties further allowing loose points an example of which is the west end SAW Yard switch to Track # 5, illustrated in Exhibit B, Photo # 4. Along with the poor switch point conditions, some frogs were noted as needing attention as seen in Photo # 5 of Exhibit B. Deteriorating frog conditions are compounded by the presence of loose or missing guard rail clamps as illustrated in Exhibit B, Photo # 6 of the north Attebury switch.

The general area is relatively flat with few culverts and only one bridge in service just east of the Burlington Northern Santa Fe (BNSF) main track on Track 9200. A visual inspection of the bridge indicates that it is an approximately fifteen foot long, open deck, two span, rail girder with four timber piles in each bent, as seen in Photos # 7 and

[1] U.S Department of Transportation, Federal Railroad Administration, Code of Federal Regulations, Title 49, Track Safety Standards Part 213.4(e)(4).

8 of Exhibit B. There are fifteen bridge ties forming the open deck and the rail girder portion is constructed of eleven pieces of 85 (or 90) pound rail interlaced together under each running rail. One span exhibits some undergrowth that needs to be removed to ensure free flow through the opening.

Alternative Two

I was asked to further analyze the preliminary maintenance-of-way (MOW) figures utilized in Mr. Bank's determination of GCV by performing an on-site visit of the subject area to determine if a greater, or lesser, level of rehabilitation would be required to achieve and support safe levels of operations. All switch and track rehabilitation would be completed utilizing American Railway Engineering and Maintenance-of-Way Association (AREMA) and FRA standards and will be sufficient to return the track to FRA Class 1 standards or upgraded to handle at least 286,000-pound capacity rail cars. *Alternative Two* would address the tracks necessary to provide rail service to both PYCO facilities, Attebury and Compress, encompassing the following:

• Track 5, SAW Yard	2,400 feet
• Track 1, SAW Yard	2,100
• Track 9200	3,900
• Track 9298	4,320
• Track lead to PYCO #2 Plant to 50th Street	6,280
• Track 231 Lead to 9200/9298	960
• Track 310 through Farmers 1	5,600
Total	25,560 feet

I understand that both PYCO facilities are currently served by the West Texas and Lubbock Railway Company (WTLC).

Based on my visual on-site inspection there are thirteen switches east of BNSF that would be traversed to serve all industries east of the BNSF main track. Similarly, there are seven public and three private at-grade, highway-rail crossings contained within *Alternative Two*.

In his verified statement, Mr. Sneed makes statements regarding deferred maintenance conditions and that track materials including rail and ties were "worn out."

My inspection indicates that those statements are acutely accurate. As I have stated earlier, the rail in *Alternative Two* exhibits signs of approaching or being beyond its useful life in all tracks and leads, with tie conditions in all the tracks walked being poor. Poor tie conditions are supplemented by the use of gauge rods and spotting in fit ties just to keep the tracks in service. The turnouts are in desperate need of rehabilitation and immediate care to prevent derailments. Many switch points, switch ties and frogs need immediate attention and/or replacement to prevent derailments occurring on the switching leads.

I have prepared a series of tables to set out rehabilitant costs for *Alternative Two*. Rehabilitation cost estimates to return *Alternative Two* tracks to FRA Class 1 standards, upgraded to handle 286,000 pound rail cars, are illustrated in Table 1. Cost estimates based on replacement "in kind" on a per-mile basis are assigned to rail, tie and ballast renewal. Since the number of turnouts and at-grade, highway-rail crossings varies by location, those line items are multiplied by the respective individual number appropriate to that scenario, again replaced "in kind", as well as a "Miscellaneous Renewal" amount being added. Also contained in Table 1 is the cost to upgrade the track to that level sufficient to support 286,000 pound rail cars, in a similar fashion.

Table 2 represents a summary of *Alternative Two* physical property and maintenance cost estimates. On the 4.84 miles of track in *Alternative Two*, there are thirteen turnouts, ten public or private at-grade, highway-rail crossings and one bridge about fifteen feet long. Table 3, provides a list of annual program MOW costs necessary to achieve steady state track conditions on *Alternative Two* tracks while Table 4 provides a breakdown of expected annual routine maintenance costs that would be incurred in daily MOW activities to *Alternative Two* tracks. Both Tables 3 and 4 are inputs to determine the annual maintenance cost per route-mile of about $19,000, shown in Table 2.

Table 1

Rehabilitation Costs
Alternative Two

Per-Mile Cost to Rehabilitate with 90# Rail		
Rail Replacement		$190,000
Tie Replacement		48,000
Ballast Replacement		21,000
Total/Mile		$259,000
Miles of Rehabilitated Track Needed		4.84
	Subtotal	$1,254,000
Turnout Replacement (13)		280,000
At-Grade, Highway-Rail Crossing Replacement (7 public, 3 private)		132,000
Miscellaneous Renewal		10,000
	Subtotal	$422,000
	Estimated Cost of Rehabilitation =	**$1,676,000**

Per-Mile Cost to Rehabilitate with 112# / 115# Rail (286 K Capable)		
Rail Replacement		$300,000
Tie Replacement		99,000
Ballast Replacement		21,000
Total/Mile		$420,000
Miles of Rehabilitated Track Needed		4.84
	Subtotal	$2,033,000
Turnout Replacement (13)		485,000
At-Grade, Highway-Rail Crossing Replacement (7 public, 3 private)		158,000
Bridge Replacement		125,000
Miscellaneous Renewal		10,000
	Subtotal	$778,000
	Estimated Cost of Rehabilitation =	**$2,811,000**

Note: Rounded to nearest thousand.

Source: RLBA estimates.

Table 2

Summary Physical Property and Maintenance Cost Estimates
Alternative Two

Track:	
Total Track Miles	**4.84**
Turnouts (Number):	
Total Turnouts (Main and Side)	**13**
Crossings (Number):	
Total Public/Private Crossings	**10**
Bridges (Linear Feet):	
Total Bridge Footage	**15**
Total Annual Program Maintenance Cost	**$38,474**
Total Annual Routine Maintenance Cost	**53,760**
Total Annual Line Maintenance Cost	**$92,234**
Total Annual Cost Per Route-Mile ($92,234 / 4.84 Miles)	**$19,053**

Source: RLBA estimates

Table 3

Annual Program Maintenance of Way Costs
Alternative Two

Cross Ties						
2,880 ties/mile /	40 years/tie=	72 ties/mile				
72 ties/mile x	$60 cost/tie x	4.84 miles=				$20,913
Surface and Line						
$7,000 per mile /	8 year cycle =	$875 per mile/year				
$875 per mile / year x		4.84 miles =				$4,236
Rail						
4.84 miles /	150 years x	$150,000 per mile =				$4,841
Road Crossings						
10 crossings	50 feet/crossing	500 L.F.				
500 L.F. x	$360 L.F. /	35 year life =				$5,143
Turnouts, Timber and Surface						
90 ST per Switch x	$100 switch tie /	35 years =	$257			
13 Turnouts x	$257 average per turnout =					$3,341
Total Annual Program Cost					$	38,474

Note: Amount rounding may occur.

Source: RLBA estimates.

Table 4

Annual Routine Maintenance of Way Costs
Alternative Two

Inspection and Minor Repair

One person (8 hours/day x 8 days/month x 12 months/year) =				768	hours/year
Contractor Wages ($30 - $40/hour) average =				$35	per hour
768	hours/year x	$35	equals	$26,880	per year

Additional Maintenance Assistance

One person (8 hours/day x 4 days/month x 12 months/year) =				384	hours/year
Contractor Wages ($30 - $40/hour) average =				$35	per hour
384	hours/year x	$35	equals	$13,440	per year

Total Labor Cost

$26,880	plus	$13,440	equals	$40,320	$40,320

Material Cost

Annual material cost will approximate one-third annual labor cost = $13,440

Total Annual Routine Maintenance Cost

$40,320	plus	$13,440	equals	**$53,760**

Note: Amount rounding may occur.

Source: RLBA estimates.

Modified Alternative Two Scenario

After visiting the railroad, PYCO requested that I express an expert opinion on what tracks would be necessary and prudent to operate under the *Alternative Two* scenario. I concluded that certain additional SAW tracks would improve operations to PYCO facilities and expedite track rehabilitation. In addition to the tracks set out in *Alternative Two*, I believe, it necessary, as well as prudent for PYCO to acquire: a) the remaining SAW yard tracks; b) the Bottling Track; c) the ACME Lead and d) both legs of the wye. The short storage track contained within the wye should be left under SAW's control to continue storing its engines on (as it currently does). The additional tracks and their respective lengths would be:

• Track 2, SAW Yard	2,775 feet
• Track 3, SAW Yard	2,500
• Track 4, SAW Yard	2,250
• Track 6, SAW Yard	2,650
• Bottling Track	300
• ACME Lead	1,000
• West Leg of Wye	1,000
• East Leg of Wye	800
• South Wye Switch toward 34th Street	150
• Additional Main Track, E/E SAW YD to BNSF	2,250
• Additional Track 1, SAW Yard to Avenue A	750
Total	16,425 feet

Source: Hugo Reed & Associates, Inc. survey and RLBA estimates.

Due to the close proximity of the yard tracks to each other and the main, rehabilitation can best be performed only on the yard as a whole. Otherwise, there will be major problems occurring with switches, sub-grade conditions, support and trespass issues.

Given that PYCO currently uses SAW Yard Tracks 5 and 2, obtaining the Bottling Track which extends northwest from the west end of SAW Track 5 would only make sense as WTLC currently stores its locomotives on that track. To complete its switching, PYCO either needs to occupy the main track across Avenue A and beyond, or to occupy the main to Avenue A and use the ACME Lead. Acquiring the ACME

Lead, which diverges just west of the west end of SAW Yard, would allow switching SAW Yard on the west end without interfering with vehicular traffic on Avenue A, thereby improving switching operations and decreasing rail/vehicular conflicts. Since ACME Brick is understood to be relocating its rail dependant operations, it is clearly preferable for PYCO to acquire the ACME Lead for switching. An additional amount of the main track about 750 feet in length (not covered in *Alternative Two*) on the west end of the yard also would facilitate switching if the ACME Lead were in use or only a small distance was needed to make switching moves.

Obtaining both legs of the wye and about 150 feet south of the south wye switch would allow PYCO (or its contract operator) the ability to turn either two locomotives and/or one locomotive and one car while hopefully still staying off the crossing signal circuit controlling 34th Street. Moreover, the west leg of the wye is very close to one of PYCO's own leads and safe operation requires control of that leg.

Similar to *Alternative Two*, Tables 5 through 8 provide information pertaining to rehabilitation and maintenance costs associated with the additional 3.11 miles of track contained in the *Modified Alternative Two Scenario* (incremental to the 4.84 miles in *Alternative Two*). Since this scenario is mostly concerned with the SAW Yard area, it contains more switches (21) and the same number of at-grade, highway-rail crossings and no bridges. The annual cost per route-mile is higher than that of *Alternative Two* due to the greater number of turnouts and their generally greater amount of required routine maintenance. Even though this scenario involves less mileage, the routine MOW cost estimate remained approximately the same due to the high volume of work generally required to support yard operations and its frequent switching activities.

Remaining Customer Scenario

In order to minimize interference with or by SAW, I inspected the remainder if SAW-owned track from adjacent streets and road crossings. My observations confirmed the basic conditions noted in Mr. Sneed's Verified Statement. These observations form the basis of cost estimates concerning the *Remaining Customer*

Table 5

Additional Rehabilitation Costs
Modified Alternative Two Scenario

Per-Mile Cost to Rehabilitate with 90# Rail		
Rail Replacement		$191,000
Tie Replacement		48,000
Ballast Replacement		18,000
Total/Mile		$257,000
Miles of Rehabilitated Track Needed		3.11
	Subtotal	$799,000
Turnout Replacement (20)		510,000
At-Grade, Highway-Rail Crossing Replacement (6 public, 4 private)		121,000
Miscellaneous Renewal		10,000
	Subtotal	$641,000
	Estimated Cost of Rehabilitation =	**$1,440,000**

Per-Mile Cost to Rehabilitate with 112# / 115# Rail (286 K Capable)		
Rail Replacement		$301,000
Tie Replacement		98,000
Ballast Replacement		18,000
Total/Mile		$417,000
Miles of Rehabilitated Track Needed		3.11
	Subtotal	$1,297,000
Turnout Replacement (20)		865,000
At-Grade, Highway-Rail Crossing Replacement (6 public, 4 private)		145,000
Miscellaneous Renewal		10,000
	Subtotal	$1,020,000
	Estimated Cost of Rehabilitation =	**$2,317,000**

Note: Rounded to nearest thousand.

Source: RLBA estimates.

Table 6

Summary Physical Property and Maintenance Cost Estimates
Modified Alternative Two Scenario

Track:	
Total Track Miles	**3.11**
Turnouts (Number):	
Total Turnouts (Main and Side) + 1 Diamond (counts as two switches)	**21**
Crossings (Number):	
Total Public/Private Crossings	**10**
Bridges (Linear Feet):	
Total Bridge Footage	**0**
Total Annual Program Maintenance Cost	**$29,555**
Total Annual Routine Maintenance Cost	**44,800**
Total Annual Line Maintenance Cost	**$74,355**
Total Annual Cost Per Route-Mile ($69,280 / 3.11 Miles)	**$23,902**

Note: Does not include new 115 pound switch on east end SAW Yard, Track 2/3 switch.

Source: RLBA estimates.

Table 7

Additional Annual Program Maintenance of Way Costs
Modified Alternative Two Scenario

Cross Ties						
2,880 ties/mile /	40 years/tie=	72 ties/mile				
72 ties/mile x	$60 cost/tie x	3.11 miles=				$13,439
Surface and Line						
$7,000 per mile /	8 year cycle =	$875 per mile/year				
$875 per mile / year x		3.11 miles =				$2,722
Rail						
3.11 miles /	150 years x	$150,000 per mile =				$3,111
Road Crossings						
10 crossings	50 feet/crossing	500 L.F.				
500 L.F. x	$360 L.F. /	35 year life =				$5,143
Turnouts, Timber and Surface						
90 ST per Switch x	$100 switch tie /	35 years =	$257			
20 Turnouts x	$257 average per turnout =					$5,140
Total Annual Program Cost					**$**	**29,555**

Note: Amount rounding may occur.

Source: RLBA estimates.

Table 8

Additional Annual Routine Maintenance of Way Costs
Modified Alternative Two Scenario

Inspection and Minor Repair

One person (8 hours/day x 6 days/month x 12 months/year) =					576	hours/year
Contractor Wages ($30 - $40/hour) average =					$35	per hour
576	hours/year x	$35	equals	$20,160	per year	

Additional Maintenance Assistance

One person (8 hours/day x 4 days/month x 12 months/year) =					384	hours/year
Contractor Wages ($30 - $40/hour) average =					$35	per hour
384	hours/year x	$35	equals	$13,440	per year	

Total Labor Cost

$20,160	plus	$13,440	equals	$33,600	$33,600

Material Cost

Annual material cost will approximate one-third annual labor cost =	$11,200

Total Annual Routine Maintenance Cost

$33,600	plus	$11,200	equals	**$44,800**

Note: Amount rounding may occur.

Source: RLBA estimates.

Scenario. My conclusions regarding this scenario indicate that there are approximately 15.47 miles of SAW track in the Lubbock area and, after deducting the mileage in *Alternative Two* (4.84 miles) along with the incremental mileage in *Modified Alternative Two* (3.11 miles), about 7.52 miles of tracks remain. Those tracks are mostly located on the Globe Avenue Lead south of the wye and the east industrial lead, including all tracks in the rock loading areas and ADM which make up the remainder of SAW trackage. There is also a small amount of trackage west of SAW Yard that is currently used for car storage and is included in this scenario. Tables 9 through 12 furnish similar information regarding this scenario.

All SAW Scenario

The last option potentially available to PYCO would be the acquisition of all SAW properties known as the *All SAW Scenario*. This scenario entails acquiring all 15.47 miles of SAW-owned track along with its 60 turnouts, 66 public and private at-grade, highway-rail crossings and the same bridge previous mentioned. Tables 13 through 16 provide a mathematical summation of the three scenarios under investigation including *Alternative Two, Modified Alternative Two* and the *Remaining Customer Scenario*. These summation tables basically cover the *All-SAW Scenario*.

Other Opportunities

PYCO requested that I evaluate the line for improvements which could be implemented to improve coordination with BNSF and to minimize the time which the switch operator needed on the BNSF mainline. Based on my inspection, I identified four opportunities to improve operation: 1) where SAW tracks cross the BNSF tracks; 2) at the retired open deck bridge east of 9200/9298 tracks; 3) extending Track 310 to switch of 9200/9298 rather than the BNSF mainline and 4) improving access to the ADM facility.

Table 9

Rehabilitation Costs
Remaining Customer Scenario

Per-Mile Cost to Rehabilitate with 90# Rail		
Rail Replacement		$191,000
Tie Replacement		48,000
Ballast Replacement		21,000
Total/Mile		$260,000
Miles of Rehabilitated Track Needed		2.50
	Subtotal	$650,000
Turnout Replacement (5)		110,000
At-Grade, Highway-Rail Crossing Replacement (11 public)		182,000
Miscellaneous Renewal		10,000
	Subtotal	$302,000
	Estimated Cost of Rehabilitation =	**$952,000**
Per-Mile Cost to Rehabilitate with 112# / 115# Rail (286 K Capable)		
Rail Replacement		$301,000
Tie Replacement		99,000
Ballast Replacement		21,000
Total/Mile		$421,000
Miles of Rehabilitated Track Needed		2.50
	Subtotal	$1,053,000
Turnout Replacement (5)		190,000
At-Grade, Highway-Rail Crossing Replacement (11 public)		218,000
Miscellaneous Renewal		10,000
	Subtotal	$418,000
	Estimated Cost of Rehabilitation =	**$1,471,000**

Note: Rounded to nearest thousand.

Source: RLBA estimates.

Table 10

Summary Physical Property and Maintenance Cost Estimates
Remaining Customer Scenario

Track:	
Total Track Miles	**7.52**
Turnouts (Number):	
Total Turnouts (Main and Side)	**26**
Crossings (Number):	
Total Public/Private Crossings	**46**
Bridges (Linear Feet):	
Total Bridge Footage	**0**
Total Annual Program Maintenance Cost	**$76,925**
Total Annual Routine Maintenance Cost	**67,200**
Total Annual Line Maintenance Cost	**$144,125**
Total Annual Cost Per Route-Mile ($149,206 / 8.34 Miles)	**$19,166**

Source: RLBA estimates.

Table 11

Annual Program Maintenance of Way Costs
Remaining Customer Scenario

Cross Ties						
2,880 ties/mile /	40 years/tie=	72 ties/mile				
72 ties/mile x	$60 cost/tie x	7.52 miles=				$32,486
Surface and Line						
$7,000 per mile /	8 year cycle =	$875 per mile/year				
$875 per mile / year x		7.52 miles =				$6,580
Rail						
7.52 miles /	150 years x	$150,000 per mile =				$7,520
Road Crossings						
46 crossings	50 feet/crossing	2,300 L.F.				
2,300 L.F. x	$360 L.F. /	35 year life =				$23,657
Turnouts, Timber and Surface						
90 ST per Switch x	$100 switch tie /	35 years =	$257			
26 Turnouts x	$257 average per turnout =					$6,682
Total Incremental Annual Program Cost					**$**	**76,925**

Note: Amount rounding may occur.

Source: RLBA estimates.

Table 12

Annual Routine Maintenance of Way Costs
Remaining Customer Scenario

Inspection and Minor Repair

One person (8 hours/day x 10 days/month x 12 months/year) =				960	hours/year
Contractor Wages ($30 - $40/hour) average =				$35	per hour
960	hours/year x	$35	equals	$33,600	per year

Additional Maintenance Assistance

One person (8 hours/day x 5 days/month x 12 months/year) =				480	hours/year
Contractor Wages ($30 - $40/hour) average =				$35	per hour
480	hours/year x	$35	equals	$16,800	per year

Total Labor Cost

$33,600	plus	$16,800	equals	$50,400	$50,400

Material Cost

Annual material cost will approximate one-third annual labor cost =	$16,800

Total Annual Routine Maintenance of Way Costs

$50,400	plus	$16,800	equals	**$67,200**

Note: Amount rounding may occur.

Source: RLBA estimates.

Table 13

Rehabilitation Costs
All SAW Scenario

Per-Mile Cost to Rehabilitate with 90# Rail		
Rail Replacement		$190,000
Tie Replacement		48,000
Ballast Replacement		21,000
Total/Mile		$259,000
Miles of Rehabilitated Track Needed		10.45
	Subtotal	$2,703,000
Turnout Replacement (38)		900,000
At-Grade, Highway-Rail Crossing Replacement (24 public, 7 private)		435,000
Miscellaneous Renewal		30,000
	Subtotal	$1,365,000
	Estimated Cost of Rehabilitation =	**$4,068,000**
Per-Mile Cost to Rehabilitate with 112# / 115# Rail (286 K Capable)		
Rail Replacement		$300,000
Tie Replacement		99,000
Ballast Replacement		21,000
Total/Mile		$420,000
Miles of Rehabilitated Track Needed		10.45
	Subtotal	$4,383,000
Turnout Replacement (38)		1,540,000
At-Grade, Highway-Rail Crossing Replacement (24 public, 7 private)		521,000
Bridge Replacement		125,000
Miscellaneous Renewal		30,000
	Subtotal	$2,216,000
	Estimated Cost of Rehabilitation =	**$6,599,000**

Note: Simple addition of all three scenarios. Rounded to nearest thousand.

Source: RLBA estimates.

Table 14

Summary Physical Property and Maintenance Cost Estimates
All SAW Scenario

Track:	
Total Track Miles	**15.47**
Turnouts (Number):	
Total Turnouts (Main and Side)	**60**
Crossings (Number):	
Total Public/Private Crossings	**66**
Bridges (Linear Feet):	
Total Bridge Footage	**15**
Total Annual Program Maintenance Cost	**$144,954**
Total Annual Routine Maintenance Cost	**165,760**
Total Annual Line Maintenance Cost	**$310,714**
Total Annual Cost Per Route-Mile ($310,714 / 15.47 Miles)	**$20,085**

Source: RLBA estimates.

Table 15

Annual Program Maintenance of Way Costs
All SAW Scenario

Cross Ties							
2,880	ties/mile /	40	years/tie=	72	ties/mile		
72	ties/mile x	$60	cost/tie x	15.47	miles=		$66,838
Surface and Line							
$7,000	per mile /	8	year cycle =	$875	per mile/year		
$875	per mile / year x			15.47	miles =		$13,538
Rail							
15.47	miles /	150	years x	$150,000	per mile =		$15,472
Road Crossings							
66	crossings	50	feet/crossing	3,300	L.F.		
3,300	L.F. x	$360	L.F. /	35	year life =		$33,943
Turnouts, Timber and Surface							
90	ST per Switch x	$100	switch tie /	35	years =	$257	
59	Turnouts x	$257	average per turnout =				$15,163
Total Incremental Annual Program Cost							**$ 144,954**

Note: Amount rounding may occur.

Source: RLBA estimates.

Table 16

Annual Routine Maintenance of Way Costs
All SAW Scenario

Inspection and Minor Repair

One person (8 hours/day x 24 days/month x 12 months/year) =				2,304	hours/year
Contractor Wages ($30 - $40/hour) average =				$35	per hour
2,304	hours/year x	$35	equals	$80,640	per year

Additional Maintenance Assistance

One person (8 hours/day x 13 days/month x 12 months/year) =				1,248	hours/year
Contractor Wages ($30 - $40/hour) average =				$35	per hour
1,248	hours/year x	$35	equals	$43,680	per year

Total Labor Cost

$80,640	plus	$43,680	equals	$124,320	$124,320

Material Cost

Annual material cost will approximate one-third annual labor cost = $41,440

Total Annual Routine Maintenance of Way Costs

$124,320	plus	$41,440	equals	**$165,760**

Note: Amount rounding may occur.

Source: RLBA estimates.

Currently, when WLTC moves across the BNSF to service the PYCO # 2 facility, it must enter the BNSF track going south, make a reverse move north onto a BNSF side track past the entrance switch to the 9200/9298 tracks and, after aligning that switch, proceed to the east to perform its switching operations. If a carrier were to work with BNSF to relocate a switch to the south of the west entrance switch, a cross movement could be made in one smooth movement without requiring any reversing of direction. This would considerably reduce the duration of the shortline's occupancy of BNSF's main line trackage, and would likely be worth the cost of mainline switch.

Another opportunity for improvement exists at the east end of the 9200/9298 tracks over the still present timber trestle. Under the present configuration, only a small number of cars (three or four) can be pulled east of the east switch before arriving at the end of the track and then shoved down the Interchange Track Lead to spot PYCO # 2, Attebury or Compress. Rehabilitation to the bridge and extending the rail to the east would allow a greater number of cars to be handled with only one switching move. However, the rail has been removed from the out-of-service bridge, and the opportunity would require a complete inspection to determine if it is economically feasible.

Track 310 is the most efficient lead track from which to serve Attebury, Compress and PYCO Plant No. 2, but it requires use of the BNSF mainline. If this lead were extended to switch of 9200/9098, then the switching railroad's occupancy of BNSF's mainline could also be reduced. It would appear that only a few hundred feet of track construction would be needed.

The first three improvements are applicable in either the *Alternative Two* or *All-SAW Scenarios.* In addition, if the *All SAW Scenario* is germane, a crossover track could be constructed between the East Lead going to the rock tracks and ADM, thereby eliminating having to go out on the BNSF main track to service the ADM plant.

Conclusion

Existing SAW track is in very poor condition and were PYCO to acquire all or a portion of the trackage, it would definitely require rehabilitation or upgrading at the very minimum rail, ties and turnouts. Visible signs of deferred maintenance are present and a band-aid approach is manifest in SAW's MOW activities.

The results of this rehabilitation would be safer, more efficient rail service and a demonstrated commitment to provide continuing service to local customers, enhancing the economic prospects of the service area. Opportunities to provide better coordination with BNSF are available if rehabilitation were undertaken. This would make the switching service more efficient for all concerned: shippers, BNSF and the switch provider.

Verification

I, Gene A. Davis, P.E., verify under penalty of perjury that I am the same Gene A. Davis, P.E. whose statement of Qualifications appears in Exhibit A of PYCO Industries, Inc Feeder Line Application STB Finance Docket No. 34890 in this proceeding; that I am responsible for the portion of PYCO Feeder Line Application in this proceeding related to the track and bridge structures contained near Lubbock, TX, in particular portions: 1) owned and operated by SAW and 2) operated on by WTLC; that I know the contents thereof; and that the same are true and correct. Further, I certify that I am qualified and authorized to file this statement.

Gene A. Davis, P.E.

Gene A. Davis, P.E.

Subscribed and sworn to before this 7th day of August, 2006.

Gwendolyn M. Penn

Notary Public

GWENDOLYN M. PENN
NOTARY PUBLIC, DISTRICT OF COLUMBIA
MY COMMISSION EXPIRES 9-14-2009

EXHIBITS

Exhibit A

Gene A. Davis, P.E.
Director, Transportation Engineering

Education
MBA, Georgia Southern University, 1997
BS, Civil Engineering, Tennessee Technological University, 1983

Professional Registrations and Affiliations
Registered Professional Civil Engineer
American Railway Engineering and Maintenance-of-Way Association, member since 1996
AREMA Member of Technical Committee 12 (Rail Transit) and 18 (Light Density & Short Line Railways)

Years of Transportation Experience
20

Qualifications
Mr. Davis joined RLBA after 18 years of experience with Norfolk Southern Corporation during which he held positions with increasing responsibility within the Engineering Department spanning management and engineering of railroad track structure, bridge and building inspection, condition assessment, maintenance, rehabilitation, design and construction as well as railroad operations.

Relevant Project Experience

- ***At-Grade Rail-Highway Crossing Dispute - Expert Witness*** Provided point by point rebuttal information pertaining to an legal preceding concerning grade crossing upgrades and construction effects on a short line railroad's viability. Provided grade crossing construction costs and projected future maintenance cost to current dollars.

- ***Holcim U.S.A. – Expert Witness*** Conducted a field inspection focused on existing conditions in the subject area and how railroad operations might be potentially impacted, coordinated with local railroad officials familiar with current operations, communicated project findings and drafted a Verified Statement used in connection with RLBA's engagement by the second largest cement manufacturer in the United States to examine and evaluate the operations and safety implications of constructing a "build-out" to obtain better rates and service by gaining access to the trackage of a second rail carrier in South Carolina while minimizing environmental impacts. The Verified Statement was included in a submission to the Surface Transportation Board regarding a crossing of CSX trackage.

- ***Lee County, FL – Expert Witness*** In the first of two assignments, inventoried, physically inspected, assessed condition and estimated the net liquidation value of the track structure in a segment of Seminole Gulf Railway L.P. railroad right-of-way near Fort Myers, FL totaling about 1.4 miles. Then utilizing the generated net liquidation value report of the track structure, along with a review of other pertinent documents, provided a point-by-point rebuttal via a Verified Statement submitted to the Surface Transportation Board in support of an adverse abandonment of the subject line.

- ***Santa Fe Trails*** Physically inspected and assessed the condition of about 20-miles of Santa Fe Southern Railway track structure between Santa Fe and Lamy, New Mexico. Particular attention was given to drainage structures (bridges and culverts), switches and public at-grade highway-rail crossings along with general track conditions, after which, cost estimates were provided for up to five years to maintain track in a steady state of repair. Comprehensive component condition assessment and cost estimates were associated with due diligence in connection with a possible sale to the public agency preserving rail access to Santa Fe. Provided potential maintenance costs to right-of-way were track to be abandoned.

- ***Morehead City Terminal/Carolina Rail Services*** Performed a physical inspection and evaluated track condition of seaport terminal operation in Morehead City, North Carolina and determined cost to upgrade and maintain track structure to support handling of 286,000 pound rail cars.

- ***State of Washington Department of Transportation*** Inventoried, physically inspected, assessed condition and valued portions of the Palouse River and Coulee City Railroad between Cheney, WA and Coulee City, WA and between Marshall, WA and Hooper Junction, WA as well as all diverging routes in Idaho and Washington, totaling 347 miles and provided a point-by-point rebuttal to comments made by a review appraiser. Net liquidation values were placed on the physical assets of six, separate sub-segments as well as the whole.

- ***Saratoga Economic Development Corporation*** Assessed the ability of the Canadian Pacific Railway's Adirondack Branch to support potential future passenger and/or freight train operations between Saratoga Springs and Corinth, New York in connection with the prospective purchase of the line by RLBA's client. After physical inspection of the many critical assets, in particular bridges, switches and public, at-grade highway-rail crossings, provided an opinion letter as to the track and bridge structure condition. A review of proposed force account work charges necessary to bring the line up to Class 2 track standards also was conducted. Prioritized additional capital spending in the event additional funding was available.

- ***Philadelphia, Bethlehem and New England Railroad*** Performed an NLV and replacement cost estimate utilizing all new materials via a physical track inspection of approximately 42 miles of this switching carrier.

- ***Northeastern Vermont Development Association*** Advised the Association of the estimated, initial capital cost to reopen rail a line between St. Johnsbury and Gilman, Vermont. After physical inspection of many critical assets, in particular bridges, switches and public at-grade highway-rail crossings, cost estimates were provided to achieve FRA Class 1 track conditions.

- ***The City of West Sacramento Redevelopment Agency*** Inventoried, physically inspected, assessed condition and estimated the net liquidation value of the track structure in a segment of Yolo Shortline Railroad Company railroad right-of-way between West Sacramento and Clarksburg, CA.

- ***The Transportation Agency of Monterey County*** Inventoried, physically inspected, assessed condition and valued Union Pacific Railroad Monterey Branch Line between Castroville and Pacific Grove, CA. Net liquidation values were placed on the physical assets of six separate sub-segments as well as the entire branch.

- ***Iowa Northern Railway Company*** Inventoried, physically inspected, assessed condition and valued railroad right-of-way between Cedar Rapids and Waterloo, IA and between Cedar Falls and Manly, IA. Net liquidation values were placed on the physical assets of both segments before and after track rehabilitation which were utilized in a FRA RRIF application.

Areas of Expertise

- ***Track and Structure Planning, Rehabilitation, Engineering and Maintenance*** Planned, scheduled and supervised numerous, large track projects such as tie renewals, rail installation, track resurfacing, shoulder cleaning and undercutting operations, structure upgrading and grade/sub-grade stabilization. Supervised numerous bridge and culvert rehabilitation projects including complete renewals, extensive tunnel repairs and tunnel portal reconfigurations. Was responsible for creating capital and operating budgets and working within them. Managed tasks at all levels of engineering responsibility including third party contract work on many projects. Has extensive experience in emergency response and repair.

- ***Design*** Participated in the redesign of the track layout in Sandusky, Ohio yard to streamline operations and the redesign of existing physical plant trackage owned by railroad customers. Responsible for the concept and design of the "Infopage" computerized asset utilization system implemented on Norfolk Southern to better utilize track and bridge components on-hand or inventoried.

- ***Operations*** Experience with switching and yard operations, train performance, customer service, FRA rules, regulations and labor agreements.

- ***Grade Crossings and Other Safety Issues*** Grade crossing committee member on the divisions while serving as a Track Supervisor. The committees sought to eliminate redundant grade crossings, reducing exposure to collisions. Helped facilitate a training conference for 250 Norfolk Southern Eastern Region engineering supervisors addressing the effect on bridge rail alignments of excessive heat and drastic temperature changes that traditionally occur in the Summer. Presentations then were made to front-line maintenance staff.

Norfolk Southern Corporation Work Experience

- ***Assistant Division Engineer-Bridges (Pocahontas Division)*** Territory spanned trackage in Charleston and Bluefield, West Virginia, Norton, Virginia and Columbus and Portsmouth, Ohio. Coordinated and facilitated new construction, inspection, and maintenance of drainage structures including bridges and culverts. Coordinated remedial repairs to tunnel structures including portal upgrades. Solicited bids for repairs by contractors and performed repairs to roadway buildings, using company forces. The 1,300 miles of his territory included over 24 miles of various bridge types, 8,000 culverts of varying construction types, 20 miles of tunnels and 16 miles of slide fences.

- ***Bridge and Building Supervisor (Georgia Division)*** Territorial responsibility covered 500 miles including Savannah, Augusta and Macon, Georgia. Performed inspections, supervised maintenance repairs and new construction by company forces of drainage structures including bridges and culverts.

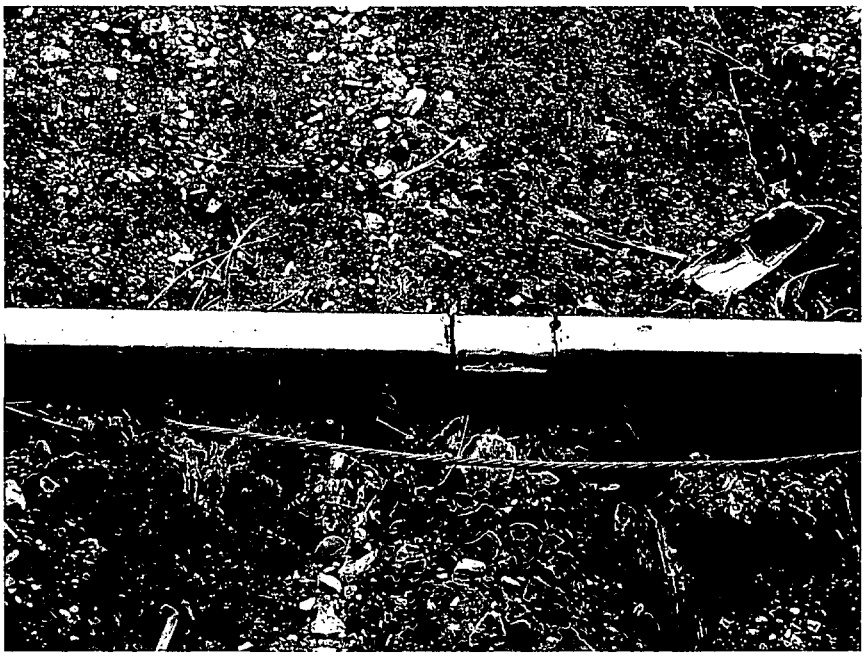
- ***Track Supervisor (Lake and Pocahontas Divisions)*** Lake Division territory encompassed trackage in Columbus, Delaware, Bucyrus, Bellevue and Sandusky, OH. Pocahontas Division territory included Welch, WV and Richlands, VA. Performed FRA inspections and accomplished remedial repairs to track structure via routine maintenance and rail, tie/surfacing and surfacing gang work. Coordinated contract services including rail grinding and undercutting. On the Lake Division, responsible for over 110 miles including Sandusky Yard and two smaller yards. Pocahontas Division responsibilities included over 36 miles of double and triple track mainline and 44 miles of single track mainline including Auville Yard.

- ***Assistant Track Supervisor (Pocahontas and Virginia Divisions)*** Territory on the Pocahontas Division encompassed trackage in Bluefield and Welch, West Virginia. Virginia Division responsibilities included trackage in Norfolk, Virginia. Performed FRA inspections and remedial repairs to track structures. Assisted in coordinating program maintenance work and contract service work on the track structure. Mr. Davis was responsible for 34 miles of double and triple track on the mainline as well as Bluefield Yard on the Pocahontas Division. Virginia Division responsibilities included 7 miles of double track mainline and also the company's key export coal terminal at Lamberts Point Yard and Portlock Yard in Norfolk Terminal.

- ***Management Trainee (Virginia Division)*** Territory encompassed trackage in Roanoke and Norfolk, Virginia and Bristol, Tennessee. Learned all aspects of track maintenance across the entire Virginia Division through hands-on experience while receiving basic exposure to the supervision of inspection and repair to the track structure.

Exhibit B

Photo # 1

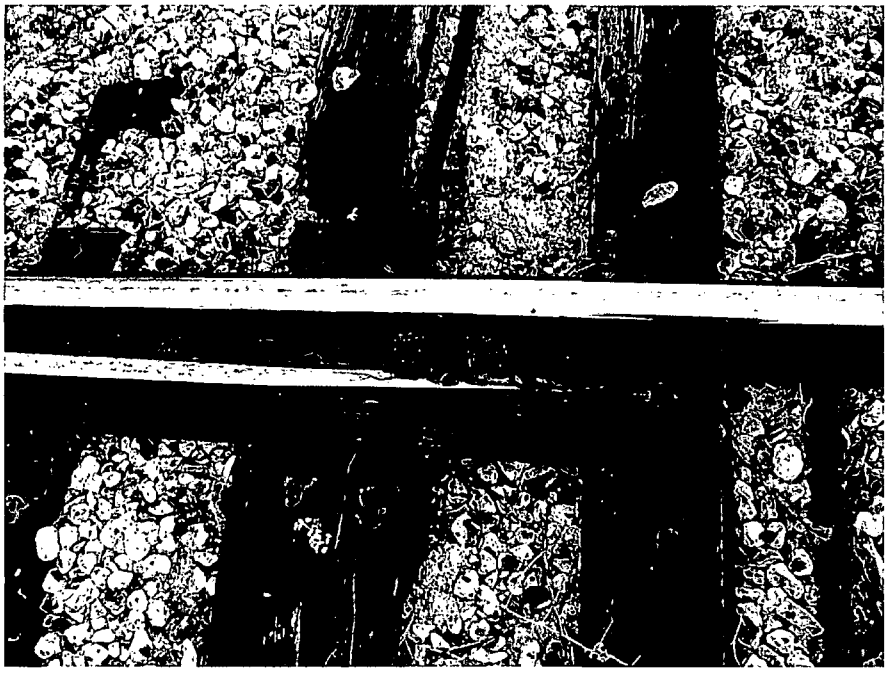


Broken Rail In Joint Bar – SAW Yard, Main Track

Photo # 2

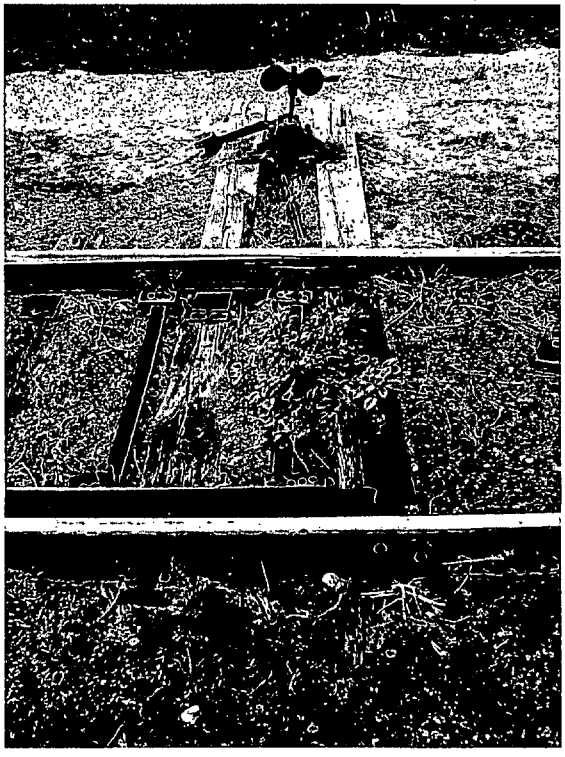
Swinging Joint in Turnout – West End SAW Yard, Track # 5

Photo # 3



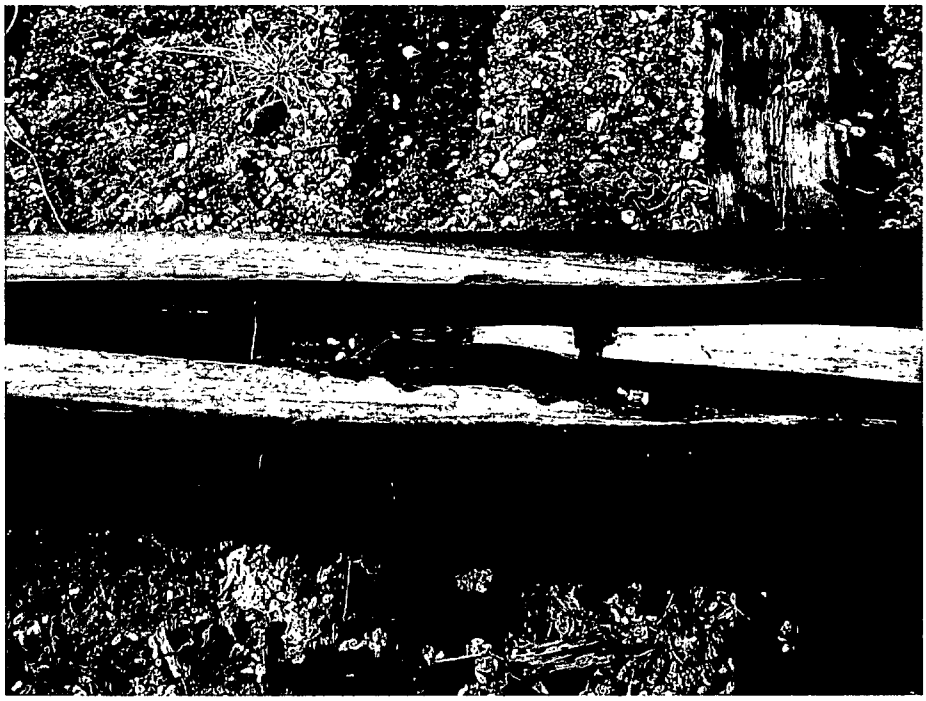
Worn Switch Point – West end SAW Yard, Track # 2

Photo # 4



Defective Head Block Ties – West End SAW Yard, Track # 5

Photo # 5



Frog Wear – West End SAW Yard, Switch Track # 2 to # 3

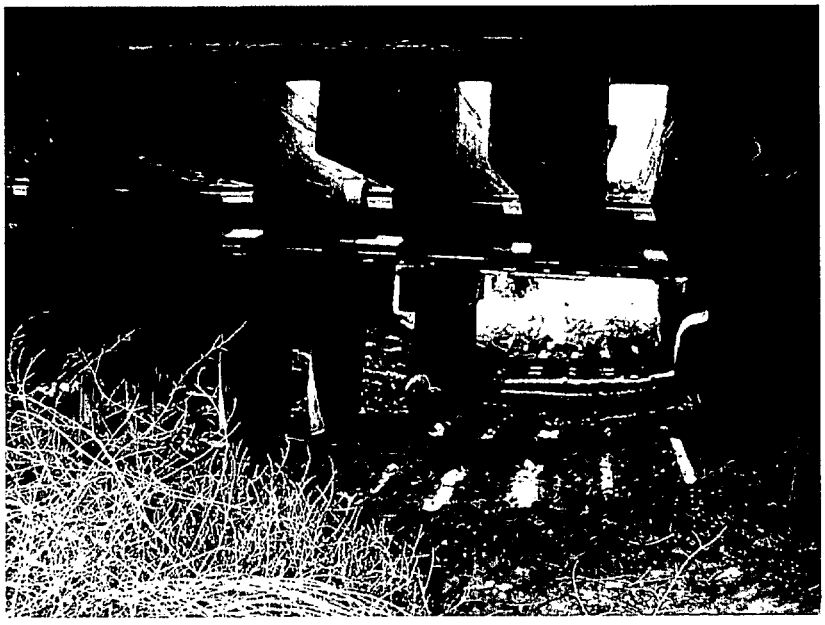
Photo # 6

Guard Rail Clamp Out – North Attebury Switch

Photo # 7

Open Deck Bridge East of BNSF Track

Photo # 8



Open Deck Bridge Opening (note rail acting as span)

APPENDIX VII

ORIGINAL

Before The Surface Transportation Board
STB Finance Docket No. 34890
PYCO Industries, Inc., et al. – Feeder Line Application -- Lines of South Plains Switching, Ltd. Co.

ORIGINAL

Supplemental Verified Statement
of
Charles H. Banks

Before The Surface Transportation Board
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Supplemental Verified Statement
of
Charles H. Banks

Table of Contents

Tables

Before The Surface Transportation Board
STB Finance Docket No. 34890
PYCO Industries, Inc., et al. – Feeder Line Application -- Lines of South Plains Switching, Ltd. Co.

Supplemental Verified Statement
of
Charles H. Banks

Table of Contents
(concluded)

Tables
(continued)

Before The Surface Transportation Board

STB Finance Docket No. 34890

PYCO Industries, Inc., et al. – Feeder Line Application -- Lines of South Plains Switching, Ltd. Co.

Supplemental Verified Statement of Charles H. Banks

Qualifications

I am Charles H. Banks, President of R.L. Banks & Associates, Inc. (RLBA), railroad transportation consultants, engineers, economists and planners, located at 1717 K Street, NW, Washington, DC 20036. I have prepared this Supplemental Verified Statement in support of a Revised Feeder Line Application I understand PYCO Industries, Inc. (PYCO) is making to the Surface Transportation Board (STB). This Supplemental Verified Statement builds on information provided in a Verified Statement I submitted in connection with the same matter as part of STB Finance Docket No. 34844, also on behalf of PYCO. My qualifications were detailed in Attachment A to that previous Verified Statement.

Summary And Scope Of Testimony

This document again presents, explains and supports computational results derived in connection with economic and financial analyses involving the going-concern value (GCV) and viability of providing rail freight service to certain railroad customers who were, or currently are, customers of South Plains Switching, Ltd. Co. (SAW) and updates those results.

More specifically, in this Supplemental Verified Statement, I was asked by PYCO to make such adjustments to my previous Verified Statement as I deemed appropriate based on my review and consideration of five filings submitted to the STB since my previous testimony was provided:

- RESPONSES AND OBJECTIONS OF BNSF RAILWAY COMPANY TO PYCO INDUSTRIES, INC.'S INTERROGATORIES, provided July 31, 2006;

- RESPONSES TO DISCOVERY questions, provided by SAW on August 4, 2006;

- the case in chief filed by Pioneer Railway Company, particularly through a COMPETING FEEDER LINE APPLICATION OF KEOKUK JUNCTION RAILWAY CO., more particularly the VERIFIED STATEMENT OF J. MICHAEL CARR, provided August 4, 2006;

- the VERIFIED STATEMENT OF GENE A. DAVIS, my colleague, addressing routine and program maintenance of way expenses and rehabilitation expenditures he believes are necessary to eliminate all deferred maintenance on all of the physical plant still owned by SAW and then to maintain that track condition in a steady state, all of which is based on a detailed inspection Mr. Davis made of all property owned by SAW, whether or not said property is served today by SAW or West Texas and Lubbock Railway Company (WTLC), provided simultaneously with this document and

- a STATEMENT IN OPPOSITION TO REVISED FEEDER LINE APPLICATION, filed on behalf of South Plains Switching, Ltd. Co., in particular, a VERIFIED STATEMENT OF JOSEPH J. PLAISTOW.

With respect to the RESPONSES AND OBJECTIONS OF BNSF RAILWAY COMPANY TO PYCO INDUSTRIES, INC.'S INTERROGATORIES, provided July 31, 2006, without getting into specifics that would violate the spirit and letter of Confidentiality Agreement that I signed, I would like to bring to the STB's attention the fact that the 2005 traffic volume totals (carloads) provided in BNSF's response are somewhat less than those advanced in my original Verified Statement or this Supplemental Verified Statement in connection with every scenario. As a result, were I to have pivoted off of the BNSF-provided carloadings to estimate freight revenues and, though it, cash flows, the GCVs that would have resulted would have been lower than the values I set forth herein.

In contrast, the carloads advanced by SAW's witness Plaistow are significantly higher than those provided by BNSF, one of the many reasons that Mr. Plaistow was able to fabricate such high values for an enterprise that can't generate enough cash to escape captivity to an excepted track condition across its entire system.

With respect to RESPONSES TO DISCOVERY questions, provided by SAW on August 4, 2006, I read nothing that suggests to me that I should make any adjustment to my going-concern valuations or any issue or topic addressed in my Verified Statement.

With respect to RESPONSES TO DISCOVERY questions, provided by SAW on a COMPETING FEEDER LINE APPLICATION OF KEOKUK JUNCTION RAILWAY CO., more particularly the VERIFIED STATEMENT OF J. MICHAEL CARR, provided August 4, 2006, I am delighted, of course, that Mr. Carr largely endorses and supports the methodology and assumptions advanced in my original Verified Statement. However, Mr. Carr makes two fundamental errors in his GCV calculation. On page 37 of his Verified Statement, Mr. Carr accepted my more site specific program and routine maintenance of way costs. Unfortunately, Mr. Carr did not accept my URCS-generated costs associated with that function or substitute any number of his own. That is not methodologically sound. I substituted (in) estimates of scenario and site specific maintenance of way costs for URCS-generated maintenance of way costs that served as a place holder, absent that substitution. In other words, I replaced more generic maintenance of way cost estimates with a set of more site specific maintenance costs. Unless one substitutes out one set of maintenance of way costs, one engages in a form of double-counting, which results in an undue reduction in estimated cash flow and, therefore, too low a GCV result. Mr. Carr has chosen to

accept my scenario and site specific maintenance of way operating costs, which I welcome, but he has not eliminated the URCS-generated maintenance of way cost estimate from the equation. His GCV thus reflects the erroneous inclusion of two sets of maintenance of way costs, which have the effect of reducing cash flow and, therefore, the GCV of *Alternative Two*.

One possible explanation for Mr. Carr's approach could be that Keokuk Junction Railway (KJRY) could not afford to "bid" the entire $ 1,405,864 proffered in my Verified Statement. To show financial responsibility, a party must show that it can purchase the asset and has sufficient working capital to operate as well. In Exhibit D to the Feeder Line Application in F.D. 34890, my firm calculated that the working capital requirement appropriate to *Alternative Two* was $ 100,663. The addition of $ 1,405,864 to $ 100,663 totals $ 1,506,527, a figure greater than the line of credit KJRY has negotiated with its bank, which line of credit would have to serve as a source of both buying the rights associated with SAW and providing working capital to the 15 rail subsidiaries, including KJRY, owned and operated by KJRY's owner, Pioneer. While $1.5 million may be an adequate source of working capital for all of Pioneer's rail operations, it is not adequate for the proposed purposes of both purchasing SAW and operating Pioneer's other railroads at the same time.

With respect to the VERIFIED STATEMENT OF GENE A. DAVIS, I have accepted the routine and program maintenance of way expenses and rehabilitation expenditures he believes are necessary to eliminate all deferred maintenance on all of the physical plant still owned by SAW and then to maintain that track condition in a steady state. Specifically, I have drawn on all the summary values set forth in his tables, substituting those numbers for the numbers that I had employed in my Verified Statement, pending this anticipated substitution of a field inspection-informed set of numbers for the placeholders I had used before. In at least one instance, the track maintenance values I now employ in my GCVs are less, now that Mr. Davis has had an opportunity to evaluate the situation in person.

Derivation Of Going-Concern Values

As was the case with respect to my Verified Statement before, I developed the supplemental going concern valuations (GCVs) herein in connection with: 1) SAW being deprived of serving solely PYCO, Compress and Attebury; 2) SAW serving the remainder of its customers and SAW serving all of its current and previous customers.

However, the GCVs in this Supplemental Verified Statement reflect my consideration of information and reasoning that have come to my attention as a result of the documents referenced immediately above. In addition, I have adopted the STB's "Alternative Two" terminology to represent scenarios addressing service solely to PYCO, Compress and Attebury. In my previous Verified Statement, I had characterized such scenarios as "Limited Customer" scenarios. Similarly, I have adopted the STB's "All SAW" terminology to represent scenarios addressing service to all current and former SAW customers. In my previous Verified Statement, I had characterized such scenarios as "All Customer" scenarios. Finally, for the reasons detailed elsewhere as part of this filing, I have developed GCVs in connection with a fourth scenario, characterized as "Modified Alternative Two," which is exactly the same as Alternative Two with respect to traffic and revenue data but contains more trackage and, therefore, more way and structures expenses.

So, this Supplemental Verified Statement and the GCVs in it address four scenarios:

- *Alternative Two Scenario*, in which I estimate the GCV of an efficient and economical short line railroad freight enterprise providing switching services only to PYCO Industries, Inc., Attebury and Compress;

- *Modified Alternative Two Scenario*, identical to the *Alternative Two Scenario* with respect to all customer, traffic volume and revenue elements but comprehending additional trackage (and associated maintenance of way and structure program, routine and rehabilitation expenses), more than assumed in *Alternative Two*, as necessary to achieve a workable operating plan;

- *Remaining Customer Scenario*, in which I examine the viability of and estimated the GCV of a railroad freight enterprise providing switching services to all customers served today by the South Plains Switching, Ltd. Co. (SAW), excluding service to PYCO Industries, Inc., Attebury and Compress and

- *All SAW Scenario*, in which I estimate the GCV of an efficient and economical short line railroad freight enterprise to serve all the customers once or still served by SAW.

PYCO Industries, Inc. currently receives rail service from the West Texas and Lubbock Railway Company (WTLC) under an alternative service arrangement authorized by the Surface Transportation Board (STB) in Finance Docket No 34802, served January 26, 2006. Under this arrangement, WTLC performs all services required by PYCO to serve its two plants in Lubbock, Texas.

Were this arrangement to continue on a permanent basis under a feeder line application and be expanded to encompass service also to/from Compress and Attebury, I compute the GCV of railroad freight business generated by PYCO, Attebury and Compress, the above-described *Alternative Two*, to be no greater than $ 1,430,128, employing the same revenue and expense assumptions as I did in my previous Verified Statement but now substituting site specific program and routine expenses based on a detailed field inspection performed by Mr. Davis for the estimates employed in my previous Verified Statement. (Please see Table 1.) Furthermore, that going-concern value declines to ($ 245,862) and ($ 1,380,872), when necessary rehabilitation using 90 pound and 112/115 pound rail, respectively, are taken into account.

However, since SAW manipulated its ownership interests in its yard area to disrupt PYCO's rail-dependent operations, since SAW fails to cooperate with WTLC in yard operations and since trackage in the yard is in such close proximity, that maintenance and rehabilitation will be hindered if ownership is split between SAW and PYCO. PYCO is legitimately concerned about the operational viability of *Alternative Two* and so I was asked to analyze the financial impacts of the *Modified Alternative Two* scenario, involving basically the entire yard (with largely irrelevant exceptions). I compute the GCV of railroad freight business generated by PYCO, Attebury and Compress, the above-described *Modified Alternative Two*, to be no greater than $ 1,204,468. (Please see Table 2.) Again, that GCV declines to ($ 1,911,532) and ($ 3,923,532), taking into account necessary rehabilitation using 90 pound and 112/115 pound rail, respectively.

I have investigated the viability of a railroad freight enterprise, such as SAW, to operate in a coordinated but independent fashion from the arrangement hypothesized in *Alternative Two*, providing service to all remaining customers that today are served by SAW. I conclude that such an independently operated service, as set forth in the *Remaining Customer Scenario* can survive as a stand alone, independent, for-profit railroad, freight service enterprise. Specifically, I find the GCV of such an enterprise to be no greater than $ 1,283,267. (Please see Table 3.) Again, that GCV declines to $ 331,261 and ($ 187,733), taking into account necessary rehabilitation using 90 pound and 112/115 pound rail, respectively.

Table 1

Revised Going-Concern Value Computation
Adjusted to Reflect Site Specific
Maintenance of Way Program, Routine and Rehabilitation Costs
Alternative Two

Cash flow, reflecting URCS maintenance of way costs		$ 227,683
Site specific maintenance of way costs:		
Program	$ 38,474	
Routine	53,760	
	$ 92,234	
Less: Maintenance of way costs per URCS	66,199	
Less: Maintenance of way costs shortfall in URCS		26,035
Cash flow, reflecting site specific maintenance of way costs		$ 201,648
Pre-tax cost of capital 2004		14.1%
Going-Concern Value, reflecting site specific maintenance costs		$ 1,430,128
Less: Rehabilitate track with 90# rail		$ 1,676,000
Going-Concern Value, reflecting rehabilitation with 90# rail		$ (245,872)
Going-Concern Value, reflecting site specific maintenance costs		$ 1,430,128
Less: Rehabilitate track with 112#/115# rail		$ 2,811,000
Going-Concern Value, reflecting rehabilitation with 112#/115# rail		$ (1,380,872)

Sources: Verified Statement of Charles H. Banks, Tables 7 and 27; Verified Statement of Gene A. Davis, Tables 1 - 4; Ex Parte No. 558 (Sub No. 8), Railroad Cost of Capital-2004, decided June 21, 2005 and RLBA calculations.

Table 2

Revised Going-Concern Value Computation
Adjusted to Reflect Site Specific
Maintenance of Way Program, Routine and Rehabilitation Costs
Modified Alternative Two

Cash flow, reflecting site specific maintenance of way costs (Alternative Two)		$ 201,648
Site specific maintenance of way costs:		
Program	$ 29,555	
Routine	44,800	
	74,355	
Less: Maintenance of way costs per URCS	42,537	
Less: Maintenance of way costs shortfall in URCS		31,818
Cash flow, reflecting site specific maintenance of way costs		$ 169,830
Pre-tax cost of capital 2004		14.1%
Going-Concern Value, reflecting site specific maintenance costs		$ 1,204,468
Less: Rehabilitate track with 90# rail (Alternative Two)	$ 1,676,000	
Less: Rehabilitate track with 90# rail (Modified Alternative Two)	1,440,000	
		3,116,000
Going-Concern Value, reflecting rehabilitation with 90# rail		$ (1,911,532)
Going-Concern Value, reflecting site specific maintenance costs		$ 1,204,468
Less: Rehabilitate track with 112#/115# rail (Alternative Two)	$ 2,811,000	
Less: Rehabilitate track with 112#/115# rail (Modified Alt. Two)	2,317,000	
		5,128,000
Going-Concern Value, reflecting rehabilitation with 112#/115# rail		$ (3,923,532)

Sources: Supplemental Verified Statement of Charles H. Banks, Table 1; Verified Statement of Charles H. Banks, Tables 27 and 29; Verified Statement of Gene A. Davis, Tables 1 - 8; Ex Parte No. 558 (Sub No. 8), Railroad Cost of Capital-2004, decided June 21, 2005 and RLBA calculations.

Table 3

Revised Going-Concern Value Computation
Adjusted to Reflect Site Specific
Maintenance of Way Program, Routine and Rehabilitation Costs
Remaining Customer Scenario

Cash flow, reflecting URCS maintenance of way costs		$ 301,290
Site specific maintenance of way costs:		
Program	$ 76,925	
Routine	67,200	
	144,125	
Less: Maintenance of way costs per URCS	23,776	
Less: Maintenance of way costs shortfall in URCS		120,349
Cash flow, reflecting site specific maintenance of way costs		$ 180,941
Pre-tax cost of capital 2004		14.1%
Going-Concern Value, reflecting site specific maintenance costs		$ 1,283,267
Less: Rehabilitate track with 90# rail		952,000
Going-Concern Value, reflecting rehabilitation with 90# rail		$ 331,267
Going-Concern Value, reflecting site specific maintenance costs		$ 1,283,267
Less: Rehabilitate track with 112#/115# rail		1,471,000
Going-Concern Value, reflecting rehabilitation with 112#/115# rail		$ (187,733)

Sources: Verified Statement of Charles H. Banks, Tables 13 and 29; Verified Statement of Gene A. Davis, Tables 9 - 12; Ex Parte No. 558 (Sub No. 8), Railroad Cost of Capital-2004, decided June 21, 2005 and RLBA calculations.

Finally, I compute the GCV of serving all customers once or still served by SAW, which I call the *All SAW Scenario*, to be no greater than $ 2,260,440. (Please see Table 4.) However, that GCV declines to ($ 1,807,560) and ($ 4,338,560 taking into account necessary rehabilitation using 90 pound and 112/115 pound rail, respectively.

The four going-concern valuations advanced above reflect only the traffic volume (carloadings) and freight revenues I was able to develop in the absence of cooperation from BNSF or SAW. Since that time, I have received and reviewed detailed historical carload and rate information, provided through the Verified Statement of witness Plaistow. Armed with such information, I also have calculated in Tables 5 though 9 mirror image GCVs of those set forth in Tables 1 through 4, reflecting only my use of the historical 2005 carloads advanced by witness Plaistow in Exhibit 3 to his Verified Statement as well as the rates and multi-tiered rate structure he advanced in Exhibit 17 to his Verified Statement in connection with year 2006.

Replacing my forecasted 2006 revenues in the four scenarios with the product of the revenue numbers advanced by witness Plaistow, results in the *Alternative Two* GCV declining from $ 1,430,128 to $ 360,206. (Please see Table 5.) If rehabilitation costs also are taken into account, as they should be, the GCV declines from ($ 245,872) to as much as ($ 2,450,794), depending upon whether 90 pound or 112/115 pound rail is installed. As I previously stated, my staff and I believe that use of 112/115 pound rail is by far the more sensible and economical course of action over the long term.

Adopting those same year 2006 revenues, derived from the Exhibits in witness Plaistow's Exhibits, results in the *Modified Alternative Two Scenario* GCV decreasing from the $ 1,204,068 in Table 2, before rehabilitation is taken into account, to $ 134,546 in Table 6. This decrease is because SAW's witness Plaistow attributes less revenue to *Alternative Two* than I do. Similarly, the number compares unfavorably to the $ 320,206 *Alternative Two* GCV result in Table 5 because *Alternative Two* incorporates the same revenue as included in Table 6 but excludes the additional maintenance of way and structures program, routine and rehabilitation expenses that are appropriate to the larger physical plant that is reflected in the *Modified Alternative Two Scenario* (Table 6). The *Modified Alternative Two Scenario* GCV based on witness Plaistow's exhibits is $ 134,546 pre-rehabilitation. That number declines to

Table 4

Revised Going-Concern Value Computation
Adjusted to Reflect Site Specific
Maintenance of Way Program, Routine and Rehabilitation Costs
All SAW Scenario

Cash flow, reflecting URCS maintenance of way costs		$ 528,973
Site specific maintenance of way costs:		
Program	$ 144,954	
Routine	165,760	
	310,714	
Less: Maintenance of way costs per URCS	100,463	
Less: Maintenance of way costs shortfall in URCS		210,251
Cash flow, reflecting site specific maintenance of way costs		$ 318,722
Pre-tax cost of capital 2004		14.1%
Going-Concern Value, reflecting site specific maintenance costs		$ 2,260,440
Less: Rehabilitate track with 90# rail		4,068,000
Going-Concern Value, reflecting rehabilitation with 90# rail		$ (1,807,560)
Going-Concern Value, reflecting site specific maintenance costs		$ 2,260,440
Less: Rehabilitate track with 112#/115# rail		6,599,000
Going-Concern Value, reflecting rehabilitation with 112#/115# rail		$ (4,338,560)

Sources: Verified Statement of Charles H. Banks, Tables 14 and 31; Verified Statement of Gene A. Davis, Tables 13 - 16; Ex Parte No. 558 (Sub No. 8), Railroad Cost of Capital-2004, decided June 21, 2005 and RLBA calculations.

Table 5

Revised Going-Concern Value Computation Adjusted to Reflect Site Specific Maintenance of Way Program, Routine and Rehabilitation Costs *Alternative Two (SAW Revenues)*

Cash flow, reflecting URCS maintenance of way costs		$ 227,683
RLBA revenue calculated	$1,040,629	
SAW revenue calculated	889,770	
Less: Adoption of SAW Revenue		$ 150,859
Site specific maintenance of way costs:		
Program	$ 38,474	
Routine	53,760	
	$ 92,234	
Less: Maintenance of way costs per URCS	66,199	
Less: Maintenance of way costs shortfall in URCS		26,035
Cashflow		$ 50,789
Pre-tax cost of capital 2004		14.1%
Going-Concern Value, reflecting site specific maintenance costs		$ 360,206
Less: Rehabilitate track with 90# rail		$ 1,676,000
Going-Concern Value, reflecting rehabilitation with 90# rail		$ (1,315,794)
Going-Concern Value, reflecting site specific maintenance costs		$ 360,206
Less: Rehabilitate track with 112#/115# rail		$ 2,811,000
Going-Concern Value, reflecting rehabilitation with 112#/115# rail		$ (2,450,794)

Sources: Verified Statement of Charles H. Banks, Tables 7 and 27; Verified Statement of Gene A. Davis, Tables 1 - 4; Verified Statement of Joseph J. Plaistow, Exhibit No. 17; Ex Parte No. 558 (Sub No. 8), Railroad Cost of Capital-2004, decided June 21, 2005 and RLBA calculations.

Table 6

Revised Going-Concern Value Computation
Adjusted to Reflect Site Specific
Maintenance of Way Program, Routine and Rehabilitation Costs
Modified Alternative Two (SAW Revenues)

Cash flow, reflecting site specific maintenance of way costs (Alternative Two)		$	50,789
Site specific maintenance of way costs:			
Program	$ 29,555		
Routine	44,800		
	$ 74,355		
Less: Maintenance of way costs per URCS	42,537		
Less: Maintenance of way costs shortfall in URCS			31,818
Cashflow		$	18,971
Pre-tax cost of capital 2004			14.1%
Going-Concern Value, reflecting site specific maintenance costs		$	134,546
Less: Rehabilitate track with 90# rail (Alternative Two)	$ 1,676,000		
Less: Rehabilitate track with 90# rail (Modified Alternative Two)	$ 1,440,000		
	$ 3,116,000		
Going-Concern Value, reflecting rehabilitation with 90# rail		$	(2,981,454)
Going-Concern Value, reflecting site specific maintenance costs		$	134,546
Less: Rehabilitate track with 112#/115# rail (Alternative Two)	$ 2,811,000		
Less: Rehabilitate track with 112#/115# rail (Modified Alt. Two)	$ 2,317,000		
	$ 5,128,000		
Going-Concern Value, reflecting rehabilitation with 112#/115# rail		$	(4,993,454)

Source: Supplemental Verified Statement of Charles H. Banks, Table 5; Verified Statement of Charles H. Banks, Tables 27 and 29; Verified Statement of Gene A. Davis, Tables 1 - 8; Verified Statement of Joseph J. Plaistow, Exhibit No. 17; Ex Parte No. 558 (Sub No. 8), Railroad Cost of Capital-2004, decided June 21, 2005 and RLBA calculations.

($ 2,981,454) and ($ 4,993,454), depending upon the assumption one makes with respect to rehabilitating with 90-pound rail or with heavier (112 or 115-pound rail), respectively.

The substitution of witness Plaistow's revenues for the ones I employed in my original Verified Statement and in Tables 1 through 4 of this Supplemental Verified Statement have the effect of increasing the GCV in the *Remaining Customer Scenario* from $ 1,283,267 in Table 1 to $ 4,755,438 if only incremental, site specific maintenance of way costs are recognized or to $ 3,803,438 and $ 3,284,438 if rehabilitation is initiated using 90 pound and 112/115 pound rail, respectively. (Please see Table 7.) The *Remaining Customer Scenario* also will be less burdened by the incurrence of track-related costs if the *Modified Alternative Two Scenario* is granted. In other words, if PYCO acquires the whole yard, the new railroad will be less attractive financially but the remainder of SAW will be more profitable.

Similarly, the substitution of witness Plaistow's revenues for the ones I employed in my original Verified Statement have the effect of increasing the going concern value in the *All SAW Scenario* from $ 2,260,440 to $ 4,662,688 if only incremental, site specific maintenance of way costs are recognized or to $ 594,668 and ($ 1,936,312) if rehabilitation is initiated using 90 pound and 112/115 pound rail, respectively. As in the *Alternative Two*, my staff and I believe that site-specific maintenance and rehabilitation involving the installation of 112/115 pound rail, must be taken into account in computing a proper GCV. (Please see Table 8.)

In summary, the GCVs I compute are shown in Table 9. Using all discovery-related adjustments and taking into account rehabilitation (which should be included), the values in all scenarios are negative, regardless of revenue source.

Table 7

Revised Going-Concern Value Computation Adjusted to Reflect Site Specific Maintenance of Way Program, Routine and Rehabilitation Costs *Remaining Customer Scenario (SAW Revenues)*

Cash flow, reflecting URCS maintenance of way costs		$ 301,290
SAW revenue calculated	$1,245,992	
RLBA revenue calculated	756,416	
Plus: Adoption of SAW Revenue		$ 489,576
Site specific maintenance of way costs:		
Program	$ 76,925	
Routine	67,200	
	$ 144,125	
Less: Maintenance of way costs per URCS	23,776	
Less: Maintenance of way costs shortfall in URCS		120,349
Cashflow		$ 670,517
Pre-tax cost of capital 2004		14.1%
Going-Concern Value, reflecting site specific maintenance costs		$ 4,755,438
Less: Rehabilitate track with 90# rail		$ 952,000
Going-Concern Value, reflecting rehabilitation with 90# rail		$ 3,803,438
Going-Concern Value, reflecting site specific maintenance costs		$ 4,755,438
Less: Rehabilitate track with 112#/115# rail		$ 1,471,000
Going-Concern Value, reflecting rehabilitation with 112#/115# rail		$ 3,284,438

Sources: Verified Statement of Charles H. Banks, Tables 13 and 29; Verified Statement of Gene A. Davis, Tables 9 - 12; Verified Statement of Joseph J. Plaistow, Exhibit No. 17; Ex Parte No. 558 (Sub No. 8), Railroad Cost of Capital-2004, decided June 21, 2005 and RLBA calculations.

Table 8

Revised Going-Concern Value Computation Adjusted to Reflect Site Specific Maintenance of Way Program, Routine and Rehabilitation Costs *All SAW Scenario (SAW Revenues)*

Cash flow, reflecting URCS maintenance of way costs		$ 528,973
SAW revenue calculated	$2,135,762	
RLBA revenue calculated	1,797,045	
Plus: Adoption of SAW Revenue		$ 338,717
Site specific maintenance of way costs:		
Program	$ 144,954	
Routine	165,760	
	$ 310,714	
Less: Maintenance of way costs per URCS	100,463	
Less: Maintenance of way costs shortfall in URCS		210,251
Cashflow		$ 657,439
Pre-tax cost of capital 2004		14.1%
Going-Concern Value, reflecting site specific maintenance costs		$ 4,662,688
Less: Rehabilitate track with 90# rail		$ 4,068,000
Going-Concern Value, reflecting rehabilitation with 90# rail		$ 594,688
Going-Concern Value, reflecting site specific maintenance costs		$ 4,662,688
Less: Rehabilitate track with 112#/115# rail		$ 6,599,000
Going-Concern Value, reflecting rehabilitation with 112#/115# rail		$ (1,936,312)

Sources: Verified Statement of Charles H. Banks, Tables 14 and 31; Verified Statement of Gene A. Davis, Tables 13 - 16; Verified Statement of Joseph J. Plaistow, Exhibit No. 17; Ex Parte No. 558 (Sub No. 8), Railroad Cost of Capital-2004, decided June 21, 2005 and RLBA calculations.

Table 9

Summary of Revised Going-Concern Value Computations
All Scenarios

Scenario	Going-Concern Value (Revenues Sourced from Verified Statements of:)	
	Charles H. Banks	*Joseph J. Plaistow*
Alternative Two (No Rehabilitation)	$ 1,430,128	$ 360,206
Modified Alternative Two (No Rehabilitation)	1,204,468	134,546
Remaining Customer (No Rehabilitation)	1,283,267	4,755,438
All SAW (No Rehabilitation)	2,260,440	4,662,688
Alternative Two (90# Rail Rehabilitation)	$ (245,872)	$ (1,315,794)
Modified Alternative Two (90# Rail Rehabilitation)	(1,911,532)	(2,981,454)
Remaining Customer (90# Rail Rehabilitation)	331,267	3,803,438
All SAW (90# Rail Rehabilitation)	(1,807,560)	594,688
Alternative Two (112#/115# Rail Rehabilitation)	$ (1,380,872)	$ (2,450,794)
Modified Alternative Two (112#/115# Rail Rehabilitation)	(3,923,532)	(4,993,454)
Remaining Customer (112#/115# Rail Rehabilitation)	(187,733)	3,284,438
All SAW (112#/115# Rail Rehabilitation)	(4,338,560)	(1,936,312)

Sources: Supplemental Verified Statement of Charles H. Banks, Tables 1 - 8).

Verification

I, Charles H. Banks, verify under penalty of perjury that I am the same Charles H. Banks whose statement of Qualifications appears in Attachment A; that I am sponsoring and responsible for the going concern valuations contained herein and the assumptions upon which they are based, that I know the contents thereof and that the same are true and correct. Further, I certify that I am qualified and authorized to file this statement.

Charles H. Banks

Subscribed and sworn to before this 11th day of August, 2006.

Notary Public

GWENDOLYN M. PENN
NOTARY PUBLIC, DISTRICT OF COLUMBIA
MY COMMISSION EXPIRES 9-14-2009

ORIGINAL

EXECUTIVE SUMMARY

Type of Property: Railroad Right of Way Land

General Location: Lubbock, Texas; Southeast industrial neighborhood from 26th Street and Avenue A on the northwest to Southeast Drive and Loop 289 on the southeast

Land Use Designation: East Sector refers to Rail Track right of way land east of MLK Boulevard
West Sector refers to Rail Track right of way land west of MLK Boulevard

SALES COMPARISON APPROACH

Value Indicated by the Sales Comparison Approach:

Industrial Land West Sector	
Direct Comparison	Eight Comparable Land Sales/Listings
Per Unit Value Indication	$0.55 per square foot
Industrial Land East Sector	
Direct Comparison	Seven Comparable Land Sales/Listings
Per Unit Value Indication	$4,000 per acre

Property One: All of "SAW" Railroad Right of way
Land Size: 2,921,901+- square feet in West Sector
52.537+- Acres in East Sector
Market Value: $1,817,000

Property Two: All of "SAW" Railroad Right of way lying east of Southeast Drive
Land Size: 36.657+- acres
Market Value: $147,000

Property Three: An 8.0 Acre Tract lying East of Avenue A, South of Coronado Drive
Land Size: 261,360+- square feet
Market Value: $192,000

Effective Date of Appraisal April 21, 2006

The previous computations of rail track right of way land area have been supplied by the Center for Geospatial Technology at Texas Tech University. They are based on the assumption the identified line segments, right of way widths, and lengths are under full fee interest ownership. Should further information indicate the full fee interest land area is different from the calculations provided, revisions to this appraisal report will be necessary.

An aerial photograph that illustrates these calculations has been prepared by the Center for Geospatial Technology and is submitted as an exhibit in the addenda of this report.

These total land areas as charted for the West Sector and the East Sector are divided according to specific railroad track usage areas. The following descriptions will be applied for the land valuations.

Area One

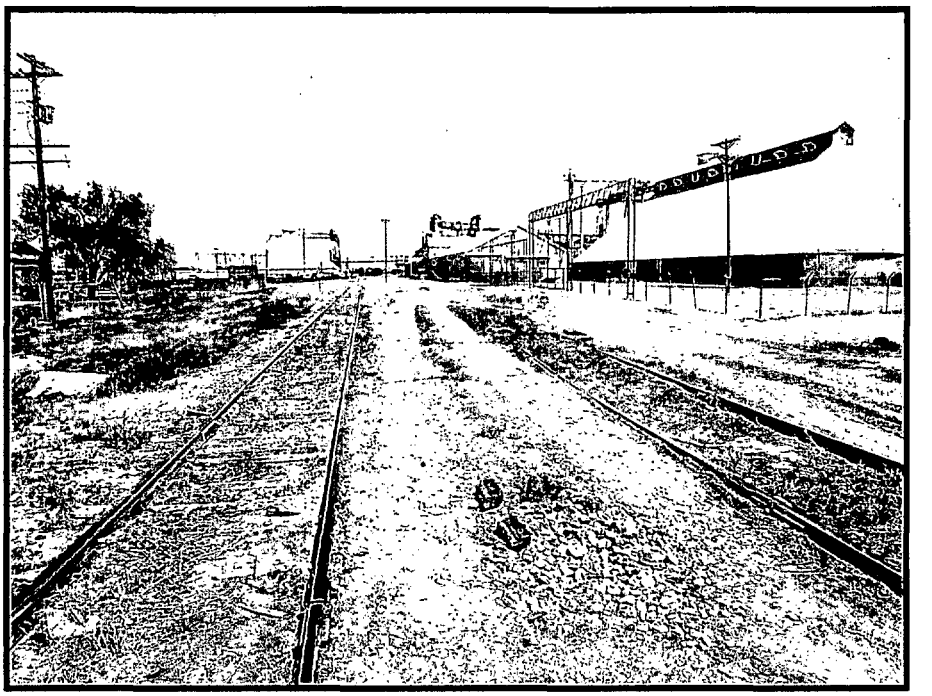
The rail trackage to be included for Area #1 is comprised of all of the West Sector and all of the East Sector, save and except, the track sections designated as Track #231 and Track #9200. This amounts to a total land area of 2,921,901+- square feet in the West Sector and 52.537+- Acres in the East Sector.

Area Two

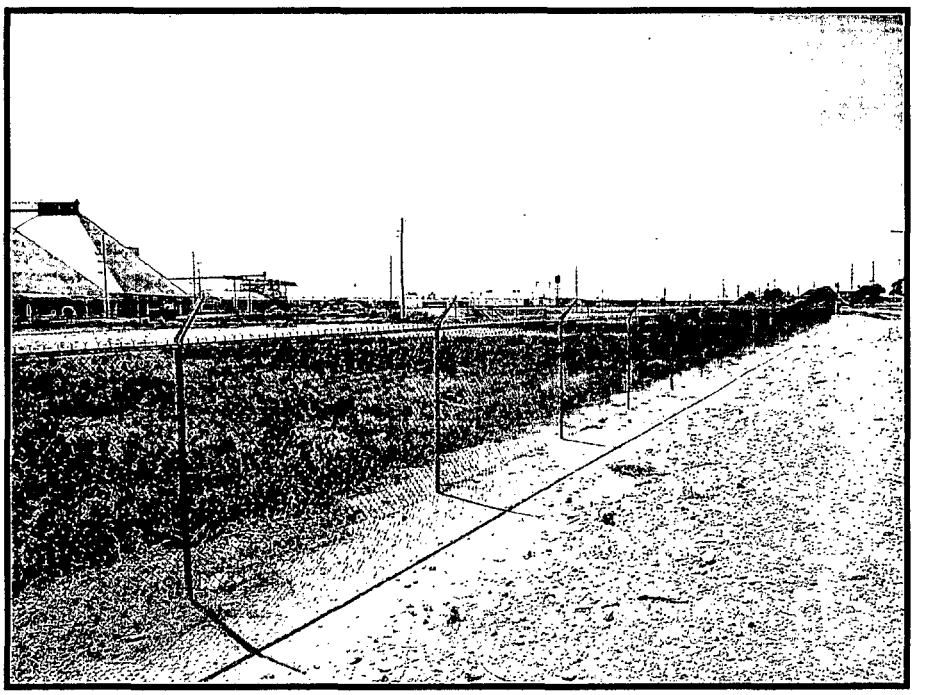
The rail trackage to be included for Area #2 is comprised of all of the East Sector land lying east of Southeast Drive. This amounts to a total land area of 36.657+- Acres.

Area Three

The land area to be included for Area #3 is comprised of a 8.00 acre tract of land to be located adjacent to the south side of Coronado Drive and lying east of Avenue A.



The subject of this appraisal is railroad right of way lands in a defined area for the southeast sector of the city. This rail track area is pictured, as we look east from Avenue A just south of 26th Street.



This tract of land is referred to as Area Three and includes eight acres along the north side of Coronado Drive just east of Avenue A.

FINAL OPINION OF VALUE

The appraisal process for the valuation of this vacant land has been completed through the application of the Sales Comparison Approach. Direct analysis of comparable sales has yielded a good deal of information pertaining to the land market for property having similar characteristics to the land under appraisal.

A cross comparison analysis with the West Sector sales to the land under appraisal presents a most probable value range of $0.50 to $0.50 with the best specific conclusion based on $0.55 per square foot. A cross comparison analysis with the East Sector sales to the land under appraisal presents a most probable value range of $3,500 to $4,500 with the best specific conclusion based on $4,000 per acre. These per unit values may be applied to the respective land areas for the four designated areas under appraisal.

After proper consideration of data within the appraisal process, the most reasonable and supportable Market Value for the whole property under appraisal is concluded to be

Area	Size	Value Per Unit	Indicated Value
One			
West Sector	2,921,901	$0.55	$1,607,046
East Sector	52.537	$4,000	$210,148
			$1,817,194
		Rounded	**$1,817,000**
Two			
East Sector	36.657	$4,000	$146,628
		Rounded	**$147,000**
Three			
West Sector	348,480	$0.55	$191,664
		Rounded	**$192,000**

Effective Date of Appraisal...April 21, 2006